



Legal Measures to Prevent and Overcome the Occurrence of Drug Crime

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Abstract: The purpose of this research is to find out and analyze the legal efforts that have been made in preventing and overcoming drug crimes in the city of Gorontalo. This research uses a type of empirical legal research that uses facts in the field as the main data in compiling the research. The type of data used is primary data consisting of interviews with respondents, observation, and documentation; and secondary data consisting of books, scientific articles, and other data sources that are considered related to the issue being discussed. The results of the study show that first, the factors that cause drug crime in Gorontalo City are economic factors, psychological factors, and environmental factors. *Second*, the legal remedy carried out by the investigator at the Gorontalo City Police for drug crimes is to take action as determined.

Keywords: Drug Crime; Causal Factors; Legal effort.

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1. Introduction

One of the mandates of the Opening of the 1945 Constitution of the Republic of Indonesia as the *modus vivendi* (noble agreement) for the formation of the Indonesian state in the fourth paragraph states that one of the goals of the state is "to protect the entire Indonesian nation", this has provided a bridge to the existence of holistic and comprehensive protection that become the responsibility of the state along with the elements of the state inherent in it. As is well known, that Of course, if you read the nuances of kebatinan from the birth certificates of this country, then substantively this country was formed to be free from all forms of oppression, both physically and psychologically for all the people and society mediating the Unitary State of the Republic of Indonesia, including in this case is the child.¹

Indonesia is the highest agreement of the state's formers, even though it has experienced a constitutional test when the 1945 Constitution was amended into the Constitution of the United Republic of Indonesia in 1949, even so the recognition of the regions under the auspices of the State of Indonesia is still recognized.² An absolute requirement for state sovereignty is the existence of a society that obeys the constitution and its government.³ Because the essence of the constitution is the conception of the state which is the basis and limitation of the constellation of the state administration system.⁴ Therefore, in legal politics, a legal discovery and new law-making that is in accordance with the goals of the State is a value that must be implemented in order to achieve legal supremacy and justice.⁵

In our daily lives, even in society, in order to make ends meet, there are often crimes and violations committed by certain people and people who threaten some members of society, which in law is known as criminal acts.⁶ At present, not only the crime rate or quantity of crime is increasing but also the type of crime or quality has developed rapidly in Indonesia. Criminal sanctions are seen as an effective solution in tackling this problem. Criminal sanctions are a manifestation of the state's responsibility to maintain security and order as well as efforts to protect the law for its citizens. This is a logical consequence

¹ N. M. Alhasni, M. R., Badu, L. W., & Nggilu, "Menakar Peran Kepolisian Dalam Mencegah Tindak Pidana Pencabulan Terhadap Anak Di Bawah Umur," *Jurnal Legalitas* 12, no. 2 (2019): 110-23.

² Novendri M. Nggilu, "Tinjauan Yuridis Pengaturan Sanksi Pidana Dalam Peraturan Daerah Provinsi Gorontalo," *Lambung Mangkurat Law Journal*. 5, No. 2 (2020): 109-121., 110

³ Mellisa Towadi and Nur Mohamad Kasim, "An Indication of China ' s Policy towards Uighurs and Its Implications by International Law Aspects." *Jambura Law Review*. 3, No. 01 (2021): 55-71., 69

⁴ Ahmad dan Novendri M. Nggilu Fakultas, "Denyut Nadi Amandemen Kelima UUD 1945 Melalui Pelibatan Mahkamah Konstitusi Sebagai Prinsip the Guardian of the Constitution of the Constitution Through the the Principle of the Guardian of the Constitution." *Jurnal Konstitusi*. 16, No. 4 (2019): 785-808., 791

⁵ Mohamad Hidayat Muhtar, "Model Politik Hukum Pemberantasan Korupsi Di Indonesia Dalam Rangka Harmonisasi Lembaga Penegak Hukum." *Jambura Law Review*. 1, No. 1 (2019): 68-93., 73

⁶ Dian Ekawaty Ismail and Mohamad Taufiq Zulfikar Sarson, "Criminology Analysis of Women's as Perpetrators of Domestic Violence Crimes," *Jambura Law Review* 3, no. 1 (2021): 57-76., 58

of the concept of forming a state which, according to JJ Rosseau, is based on community agreements. Furthermore, the people agreed to enter into a noble agreement (*modus vivendi*) which was set forth in a basic law in the form of the state constitution.⁷ Legal protection is really needed because of efforts to integrate various needs in associations so that there are no conflicts between needs and can enjoy all the rights granted by law.⁸ The state is firmly obliged to try to fulfill the rights of every citizen.⁹

Indonesia is currently in a state of drug emergency. Of course, this indicates that the situation in Indonesia has really reached an alarming (emergency) phase regarding cases of drug abuse, thus requiring attention and vigilance from various elements of society in order to be able to tackle and prevent the illicit trafficking of drugs from spreading.¹⁰

Drug abuse, both by users and dealers, of course there are things that affect it. For example due to mental pressure, social conflict, inadequate economic conditions, to environmental factors where actors interact with their environment. This condition is apprehensive and very worrying. Our concerns and worries are certainly very justified. The hope of realizing a friendly, healthy social order, an environment that is always colored by an atmosphere of familiarity and so on, must be broken because of the consequences of the use of narcotics and the like. So what are the actual impacts and consequences that can arise from the use of narcotics and the like for our social environment, and how is narcotics crime seen from criminology?

Criminology, in general, can be understood as a study that specifically examines how a crime can occur. The occurrence of a crime, in general, can be caused by several factors such as inadequate economic conditions, the environment, and the family of the perpetrator who committed the crime.

The actions of several individuals who deliberately use narcotics and distribute narcotics must be anticipated earlier, both at the level of the family environment to the community environment so as not to have a wider impact on society. As a social phenomenon, what is considered is the human actor in his position in the midst of society. Or in other words, criminology pays attention to the "criminals". If criminal law pays attention to "events", then turns to the criminals, then punishes the criminals. Actions that are not found in criminology have no concern for the sentencing process. This is due to the fact that criminology also creates a safe and peaceful society.

⁷ Ramdan Kasim, "Dehumanisasi Pada Penerapan Hukum Pidana Secara Berlebihan (Overspanning van Het Strafrecht)," *Jambura Law Review*. 2, No. 1 (2020): 1-29., 3

⁸ Jufryanto Puluhulawa, Mellisa Towadi, and Vifi Swarianata, "Perlindungan Hukum Situs Bawah Air Leato / Japanese Cargo Wreck The Legal Protection of The Leato Underwater Site" *Jurnal Reformasi Hukum* 24. No. 2 (2020): 189-208., 197

⁹ Julius Mandjo, "The Right to Obtain Free Assistance and Legal Protection for The Indigent People Through Legal Assistance Organizations." *Jambura Law Review*. 3, No. 02 (2021): 365-77., 375

¹⁰ dkk Gilza Azzahra Lukman, "Kasus Narkoba Di Indonesia Dan Upaya Pencegahannya Di Kalangan Remaja," *Jurnal Penelitian Dan Pengabdian Kepada Masyarakat* 2, no. 3 (2021): 407.

In addition to preventive efforts made by the community, repressive efforts must continue to be pursued by competent legal apparatus. As a basis for action for the state legal apparatus to provide several regulations regarding this matter including Law Number 22 of 1997 concerning Narcotics, Law no. 5 of 1997 concerning Psychotropics, ratification of the UN convention on eradicating the illicit traffic of narcotics and psychotropics by Law Number 7 of 1997 and the 1971 psychotropic convention by Law Number 8 of 1996 and other laws and regulations issued by the government. With these laws and regulations, law enforcement has a strong and firm legal basis to take action against the perpetrators, both manufacturers, distributors, depositors,

Drug abuse by people in Indonesia has spread to all elements of society. In fact, in a study written by Bayu Puji Hariyanto, he stated that this abuse was not only among the uneducated, but also for educated people.¹¹ Apart from that, he also mentioned that weak supervision by the government was also the reason why this type of crime still exists today.

In legal studies, there is a scientific discipline, namely criminology which specifically seeks to find out and answer why a crime can occur. This is done not without reason. Because by finding out what are the causes of the occurrence of the crime in question, it will be known what solutions or steps that must be pursued to be carried out in the future.

Thus, the researcher is interested in conducting research related to Criminological Review of Drug Crime in Gorontalo City.

2. Method

This type of research is empirical research, the research method is a way of doing something by using the mind carefully to achieve a goal by searching, writing, formulating and analyzing a report.¹² This research uses techniques Data analysis is a research activity in the form of studies or research on the results of data processing using previously obtained theories.

3. Measures to Prevent and Overcome the Occurrence of Drug Crime

The crime of narcotics and illegal drugs (hereinafter abbreviated as narcotics) is one type of crime whose impact is very broad, not only on users (users) but also on society or the environment. Even the issue of drugs is used as a crucial one and is considered to be a threat to the country.¹³ This cannot be separated from the existence of various factors that

¹¹ Bayu Puji Hariyanto, "Pencegahan Dan Pemberantasan Peredaran Narkoba Di Indon," *Jurnal Daulat Hukum* 1, no. 1 (2018): 202.

¹² Child Narbuko dan Abu Achmadi, *Metodologi Penelitian* (Jakarta : PT. Bumi Aksara, 2003).

¹³ dkk Ali Azhar, "Pencegahan, Pemberantasan, Penyalahgunaan Dan Peredaran Gelap Narkoba (P4gn) Pada Pesantren," *Jurnal Inovasi Penelitian* 1, no. 11 (2021): 2464.

also influence narcotics as a crime which is considered by laws and regulations as an act that deviates from the norm.

As a form of countermeasures against drug crimes, the government has helped establish various regulations, particularly the Narcotics Law. The follow-up of this effort is then carried out by the competent authority for that. However, despite various efforts to overcome it, drug crimes still exist, even in the city of Gorontalo, which has dozens of cases.¹⁴This indicates that narcotics crime should be given more attention considering the impact it still has on the surrounding environment.

Fundamentally, the Law on Drugs adheres to the concept of strict liability, which means that there is criminal responsibility by the perpetrator. In addition, in the provisions of Article 4 of the Drug Law, it is stated that the purpose of the Narcotics Law is to prevent the circulation of various types of narcotics which are intended for negative things. So then, the question is why drug abuse is called a deviant act and can be subject to criminal sanctions, and what causes perpetrators to abuse drugs, especially in Gorontalo City.

In this study, the author will use the theory put forward by AS Alam and Amir Ilyas, related to the causes of crime as his analytical knife. This is done by the author so that the discussion in this study does not widen and focuses on what are the causes of drug crime in Gorontalo City, and what efforts are being made to deal with these crimes, while the theory from AS and Amir Ilyas is that a crime occurs due to several reasons such as economic factors, environmental factors, and psychological factors.

In criminology, a crime, including drug crime, can be caused by several factors, one of the most common being economic factors. However, furthermore there are several factors for the occurrence of criminal acts, especially drug crimes such as biological conditions, psychogenesis, sociogenesis, and subcultural delinquency. This factor will also be used by researchers as an approach to analyze what are the factors that cause drug crime in Gorontalo City.

Based on the results of an interview with the investigator from the Gorontalo City Police who was in charge of the Narcotics Research on behalf of Adiwarsa Irsan Siby, he explained that there were several factors that caused the perpetrators of drug crimes to be handled by the investigators, including due to economic constraints that squeezed the existence of self-motivation. within the perpetrator.¹⁵

In the study of criminology, the most important factor that causes a person to commit a crime is the squeezing economic conditions. There are economic conditions that squeeze a person, such as when he needs a job but because he does not have the ability or competence himself, he tends to commit criminal acts such as stealing, or other actions

¹⁴ Sumber Data: Polres Gorontalo Kota tahun 2022.

¹⁵ Wawancara dengan Adiwarsa Irsan Siby, penyidik pada Polres Gorontalo Kota bidang Reserse Narkoba. Senin, 14 November 2022. Pukul 13. 00. Wita

such as becoming a drug dealer to get more profit. The same thing was stated by Fuad Alghi Fari and Susi Fitria Dewi, in the results of their research that the weak level of education and economic conditions made the perpetrators to become drug dealers in order to meet their daily needs.¹⁶

Simply put, to become a drug user (abusing), the perpetrator needs money to buy or get it from dealers. In this condition, of course the person who becomes a user is ready with his financial ability to become a user (abusing drugs). Therefore, the economic factor is not immediately used as a concrete reason related to the justification that the perpetrator is being squeezed. However, if referring to the results of the interview as before, then what was stated by the investigator is correct because he used the phrase buying and selling illegal drugs. In conclusion, economic factors can indeed cause someone to commit a crime or trigger someone to commit a crime. There is an economic disparity between actors who are squeezed by the necessities of life,

Furthermore, the rate of population growth from year to year is increasing and is not accompanied by the provision of employment, which in turn creates a new problem, namely unemployment everywhere. This in turn can actually affect the level of crime because people need living expenses, so they could have committed crimes such as stealing to fulfill their needs.¹⁷ Therefore, what was mentioned by the investigators is related to why someone commits a drug crime, because one of the perpetrators feels squeezed because of economic inequality. However, if we look further, the perpetrators of drug crimes can't be divided into several groups, such as dealers or users? If he is a trafficker, then of course the criminological theory about one of the causes of crime is that there is an economic factor can be justified, but if he is a user, then of course this still needs to be investigated further. Because, in the condition that the perpetrators are drug users, then the economic factor should not be used as a justification that the perpetrators are being squeezed by their economy.

Criminology provides an illustration that a crime does not just happen, but there are triggers for someone to commit a crime. The triggers are quite diverse, one of which is a person's emotional or psychological state. In the end, psychological conditions can be used to find out the reasons someone commits a crime by studying the problems that exist in the perpetrator.¹⁸ Certain problems or circumstances that exist in the perpetrator is the conclusion why someone can do evil

In the study of criminology, a person's psychological state can also affect a person's attitude or response to his environment. This is also confirmed by AS Alam and Amir

¹⁶ Fuad Alghi Fari & Susi Fitria Dewi., "Faktor Penyebab Terjadinya Tindak Pidana Kejahatan Narkotika," *Jurnal USM Law Review*. V 4, no. 1 (2021): 431-43.

¹⁷ Mohammad Aulia Rahman, "Tinjauan Kriminologi Tindak Pidana Pencurian Dengan Kekerasan (Studi Kasus Di Wilayah Lumajang).," *Jurnal Darma Agung* 20, no. 2 (2022): 41.

¹⁸ dkk Andi Herwin Herfendy Nasdar, "Kebijakan Hukum Dalam Menanggulangi Tindak Pidana Penyalahgunaan Bahan Bakar Minyak Subsidi Pemerintah," *Jurnal Lex Privatum* 10, no. 3 (2022): 5.

Ilyas, that psychological factors can be the cause of a person committing a crime.¹⁹including drug crimes. In line with this opinion, Anang Priyanto, stated that there is a formulation in criminological studies in which a crime can be studied from a psychological perspective.²⁰

In criminology, crimes can be found out through the behavior shown by the perpetrators. The point is that a person's psychological state affects how he responds or how he acts towards something, including narcotics crimes. Therefore, this factor is often the most important cause because this factor is very closely related to motivation that is born from a person's psychological state. The principle is that a person's psychological state can exert influence in the form of motivation, state of intelligence, rationalization, emotional instability, inner conflict, and tends to be due to psychopathological conditions.²¹

The psychogenic factor for the occurrence of narcotics crime is classified as an internal factor because it comes from within the perpetrator. Because the trigger is an emotional state, motivation or drive which experts call the overall emotional condition that influences the perpetrator to do evil. Simply put, this factor substantially responds to what he sees or feels so that in turn he will act according to his will.

In a study conducted by Fahrul Pratama and Nurhilmiyah, in a nearly similar study, he stated that one of the causes of the criminal act of narcotics abuse is the social condition of society.²²This is based on the fact that the environment in which a person lives will shape his mindset about what he sees, hears and feels. Therefore, this factor is substantively a factor that comes from outside (external).

The results of interviews with the investigators above, it can be seen that the causes of narcotics crimes in Gorontalo City were handled by the Gorontalo City Police investigators, association that occurred between a person and his friend who had already existed as a "driver and user". In addition, the invitation from friends is another way how the environment shapes and causes drug abuse in Gorontalo City.

A bad environment is one of the triggers why someone violates norms that already exist. Edwin H. Sutherland,²³suggests that the friendship environment that exists between a person and another person can influence that person to do evil. Nevertheless, he explained further that association with a friend does not necessarily make a person do evil.

¹⁹ A.S Alam dan Amir Ilyas., *Kriminologi: Suatu Pengantar* (Jakarta : Kencana, 2018).

²⁰ Anang Priyanto, *Modul : Pengantar Kriminologi* (Universitas Terbuka, 2015).

²¹ Indah Sri Utami, *Aliran Dan Teori Dalam Kriminologi*. (Yogyakarta: Thafa Media, 2012).

²² Fahrul Pratama, "Penanggulangan Tindak Pidana Penyalahgunaan Narkotika" (Fakultas Hukum, Universitas Muhammadiyah Sumatera Utara, 2020).

²³ Timo Sairun, "Tinjauan Kriminologi Terhadap Tindak Pidana Penyalahgunaan Narkotika Oleh Pelajar SMA Di Kota Malang (Studi Kasus Di Polres Kota Malang)." (Universitas Muhammadiyah Malang, 2020).

Apart from the various factors that have contributed to the occurrence of narcotics crimes handled by the Gorontalo City Police, there are other important things after knowing the causes of narcotics crimes. For example, by carrying out educational activities to influence the causes of criminal acts (correlative criminogen).²⁴This aims to seek prevention or prosecution of drug crimes, which from year to year the level of cases continues to increase

The Gorontalo City Police, as one of the elements of law enforcement mandated by laws and regulations, always makes various efforts to tackle and act on narcotics crimes that occur in their jurisdiction (Gorontalo City). This effort is of course in line with its function as stipulated in the Criminal Procedure Code and the Law on the Police, namely to take action against the crime referred to as a legal remedy.

When conducting interviews with investigators at the Gorontalo Police narcotics unit, his party explained that the legal remedy that could be taken was to take action in accordance with existing procedures. In full, the following is the result of the interview with the investigator:

"Investigators from the Gorontalo City Police will take action, judging from evidence such as methamphetamine-type drugs, if it is more than 1 gram, the investigator will follow up, while cannabis if it is more than 5 grams, investigators will take action. Since the city of Gorontalo is only a small town, so most of those who are arrested are only interested in or as users of narcotics, the Gorontalo City Police investigators use the user article, namely Article 127, which is an article that can be applied/imposed to parties who possess narcotics as abusers or addicts and the sanctions are rehabilitation or maximum imprisonment of 4 years."

It can be seen from the results of the interview above, prosecution of drug crimes is carried out if evidence is found by the investigator. Apart from that, his party also stated that in the city of Gorontalo, the perpetrators were mostly users of these drugs. The statement by the Gorontalo Police investigators was based on the fact that Gorontalo City is a relatively small city, making it impossible for dealers to carry out their actions.

In addition to the reasons above, the investigator further stated in his interview the following: "Investigators concluded that the perpetrators were users or dealers. Judging from the evidence and formal material files, if these were complied with, they would be sent to the prosecutor's office, after which the investigators were just waiting for a

²⁴ Roni Gunawan Raja Gukguk & Nyoman Serikat Putra Jaya, "Tindak Pidana Narkotika Sebagai Transnasional Organized Crime," *Jurnal Pembangunan Hukum Indonesia* 1, no. 3 (2019): 346.

decision from the prosecutor's office. The results of the prosecutor's office will be followed up by investigators."

From the results of the interview above, it can be concluded that the legal efforts made are only limited to repressive efforts by the investigators as law enforcers. However, what about other legal remedies? In fact, in carrying out prevention and prosecution of criminal acts of narcotics can be done in a way other than regressive way. For example, in a preventive way by the Gorontalo City Police.

The Gorontalo Police can carry out preventive efforts which can be started by conducting socialization in the community, school environment, and other environments. This substantive of course will reduce the level of narcotics abuse in Gorontalo City. By conducting socialization that is educative in nature, it will have a positive influence on all elements of society in Gorontalo City.

As a conclusion, the legal efforts that can be taken by the Gorontalo City Police should be more varied because drug crimes (abuse) are caused by several factors, namely due to psychological, economic and environmental conditions that tend to be bad for the people who live in them. The various ways that the authors mean are not only focused on the process of handling them in the criminal justice system in general, but must involve several methods such as socialization in the learning environment, workplace, and so on. In addition, according to the author, there are several other options that can be done, namely giving an award to someone who has never been involved in drug crime.

4. Conclusion

Based on the results of the analysis and discussion that have been described above, it can be concluded that the legal effort taken by the investigators at the Gorontalo City Police for drug crimes is to take action as determined. Factors in the occurrence of drug crimes in Gorontalo City are economic factors, psychological factors, and environmental factors

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