

# PRANATA HUKUM

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Journal of **PRANATA HUKUM** is intended as a medium of communication, education and scientific information in the field of legal science. Servings and packaging are sought communicatively through scientific language. The editor invites all elements of society, both academicians, practitioners, community institutions, and individuals interested in the field of law to participate in developing ideas, insights, and knowledge through writings to be published in this journal. Through **PRANATA HUKUM** is expected to occur the process of developing the field of law as an important part of a long series of processes to advance the nation's society

# LAMPUNG PROVINCIAL GOVERNMENT SYNERGY AND BNN IN P4GN PROGRAM

Sri Riski,<sup>1</sup> Damanhuri WN<sup>2</sup>

## *Abstract*

*The regulation regarding narcotics is currently regulated especially in the Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics. In the Narcotics Law, narcotics are divided into 3 groups which are further mentioned in the attachment to the law (Article 6 of the Narcotics Law). To eradicate the abuse of narcotics in Indonesia, a Badan Narkotika Nasional, or abbreviated as BNN, was established (Article 64 Paragraph (1) of the Narcotics Law). In carrying out their investigative duties, investigators of the National Narcotics Agency (BNN) have the authority, among other things; to search and conduct tests of urine, blood, hair, and other body parts (Article 75 letters e and 1 of the Narcotics Law).*

**Keywords:** Synergy, BNN, P4GN

## I. INTRODUCTION

The abuse and illicit trafficking of narcotics continues to be a serious threat to every country, this is due to the increase in illegal narcotics production and distribution that is so fast and widespread that no longer knows the boundaries between countries, resulting in victims of drug abuse which have increased every year. The efforts to control the narcotics tightly by countries in the world have been able to control the trafficking of narcotics in Europe, America and Asia. However, transactions and illicit narcotics trafficking committed by organized crime continues to increase, so that various efforts are needed to protect the community from the dangers of narcotics.

The circulation of illegal narcotics is increasingly widespread among Indonesian society. This of course will be even more worrying, especially since we know that many narcotics problems are currently not only a national problem but also an urgent international problem to be overcome. The problem of narcotics is not a new problem in Indonesia. This can be seen by the existence of Law Number 9 of 1976 concerning Narcotics, which was then renewed by Law Number 22 of 1997 concerning Narcotics. These two laws were deemed ineffective in controlling and supervising as well as efforts to prevent, eradicate the abuse and illicit trafficking of narcotics so that Law Number 35 of 2009 concerning Narcotics was re-enacted and is the current law. Article 64 Paragraph (1) of Law Number 35 Year

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2009 concerning Narcotics explains that: "In the framework of preventing and eradicating the abuse and illicit trafficking of Narcotics and Narcotics Precursors, with this Law the National Narcotics Agency is established, hereinafter abbreviated as BNN". The BNN is based on Presidential Regulation Number 83 of 2007 concerning the National Narcotics Agency, the Provincial Narcotics Agency, and the Regency / City Narcotics Agency. The BNN is a non-structural institution that is under and directly responsible to the President, which only has the task and function of coordinating. In Law Number 35 of 2009 concerning Narcotics, the BNN was upgraded to a non-ministerial government agency and strengthened its authority to carry out investigations and investigations.

The National Narcotics Agency is expected to be able to assist the government to tackle narcotics abuse among the public. In Article 70 of Law Number 35 Year 2009 concerning Narcotics, it is explained that: "The BNN has the following duties: (a) to compile and implement prevention and eradication of the abuse and illicit trafficking of Narcotics and Narcotics Precursors; (b) preventing and eradicating the abuse and illicit trafficking of Narcotics and Narcotics Precursors; (c) coordinate with the National Police Chief of the Republic of Indonesia in the prevention and eradication of the abuse and illicit trafficking of Narcotics and Narcotics Precursors; (d) increase the capacity of the medical rehabilitation and social rehabilitation institutions for Narcotics addicts, whether organized by the government or the community; (e) empowering the community in preventing the abuse and illicit trafficking of Narcotics and Narcotics Precursors; (f) monitoring, directing, and increasing community activities in the prevention of abuse and illicit Narcotics and Narcotics Precursors; (g) carry out bilateral and multilateral cooperation, both regionally and internationally, to prevent and eradicate illicit trafficking of Narcotics and Narcotics Precursors; (h) developing the Narcotics and Narcotics Precursor laboratory; (i) carry out the administration of investigation and investigation into cases of abuse and illicit trafficking of Narcotics and Narcotics Precursor; and (j) prepare an annual report on the implementation of duties and authorities".

The results of the data that I obtained from the National Narcotics Agency website and the Supreme Court website, there are several examples of cases handled by the National Narcotics Agency to ensnare Narcotics case suspects. Among these cases: 1. Tesar Esandra, SH. M.kn. (Number: 154 / Pid. B / 2012 / PN.TK) who were caught using the Narcotics type Methamphetamine were included in group I serial number 61 of RI Law Number 35 of 2009 concerning Narcotics. After the laboratory examination through urine is carried out at the Narcotics Test Laboratory of the BNN; 2. Maruli Tampubolon als Ruli (Number: 1057 / Pid.B / 2013 / PN.JKT.Sel) was caught using Class 1 Narcotics, based on the results of laboratories through urine that it really contains Delta 9 Tetrahydrocannabinol and contains 3,4 Methylenedioxymethcathinone and through hair is true negative;

3. Eddy Als Pitak Child from Tjhi Jun Sion (Number: 55 / Pid.BB / 2015 / PN Sgl) was caught with evidence in the form of 1 (one) clear plastic wrap containing white crystal type meth. Based on the minutes of laboratory examination from the BNN laboratory office on evidence of white crystals and urine containing methamphetamine and registered in group I Serial Number 61 Attachment to the Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics.

The impact of narcotics is clearly so complex and complicated and can damage the nation's future generations. Therefore, in order to prevent and eradicate the abuse and illicit trafficking of narcotics, whose modus operandi is increasingly sophisticated, the expansion of investigative techniques through hair, urine and blood drug testing is regulated to track and reveal narcotics abuse and illicit traffic. Based on the description above, the researcher is interested in discussing the proving power of narcotics testing by BNN in determining the criminal act of Narcotics abuse. The problems of this research consist of how is the synergy between the Lampung provincial government and the BNN in preventing the eradication of narcotics abuse and illicit trafficking (P4GN)? And what are the Inhibiting Factors in preventing the eradication of narcotics abuse and illicit trafficking (P4GN) implemented by the local government of Lampung province and BNN?

## **II. DISCUSSION**

### **Synergy of the Regional Government of Lampung Province and BNN in Prevention of Eradication of Narcotics Abuse and Illicit Narcotics (P4GN)**

Before discussing the synergy of the Lampung Provincial government and the National Narcotics Agency in the Prevention of the Eradication of Narcotics Abuse and Illicit Narcotics (P4GN), the researcher will first discuss the urgency of efforts to prevent the Eradication of Narcotics Abuse and Illicit Narcotics (P4GN), from the perspective of criminal law in Indonesia. That is, narcotics are actually substances or drugs that are very important for medicinal purposes, but they will cause big problems if they are used incorrectly. This public disease has become a problem for all countries in the world, so that the majority of UN members agreed to the United Nation Convention Against the Delict Traffic in Narcotics Drugs and Psychotropic Substances in 1988. In terms of national interests, this convention can guarantee legal certainty and justice in efforts to enforce it. the law on the illicit trafficking of narcotics and psychotropic substances involving criminals across Indonesian territorial borders. In addition, for the national interest, especially domestic interests, certainty and benefits will be obtained in the

framework of regulating the circulation of narcotics and psychotropic substances for the benefit of medicine and science.<sup>3</sup>

Article 7 of Law Number 35 of 2009 stated that Narcotics can only be used for the benefit of health services and / or the development of science and technology. There has been a culture in modern society that both adults and adolescents try to avoid negative feelings and manage pain or pain by taking drugs or using drugs, not looking for solutions or solutions to problems in a constructive and positive way.<sup>4</sup> Which then Law Number 35 Year 2009 basically also has 2 (two) sides, namely a humanist side to narcotics addicts, and a tough and firm side to dealers, syndicates, and narcotics dealers.<sup>5</sup>

In essence, Law Number 35 of 2009 concerning Narcotics has regulated the types of sanctions given to narcotics crimes, including:

- 1) Criminal action for abusers or as victims of narcotics abuse, the abuse must undergo medical rehabilitation and social rehabilitation.
- 2) Criminal Actions Parents / Guardians of Narcotics Addicts Narcotics Not Enough Age (Article 128) shall be punished with imprisonment of a maximum of 6 (six) months or a maximum fine of Rp1,000,000.00 (one million rupiah).
- 3) Criminal Acts Committed by Corporations (Article 130) Sentenced to imprisonment and a fine with a weighting of 3 (three) times. The corporation can be punished by the corporation can be subject to additional penalties in the form of: a. revocation of business license and / or b. revocation of legal entity status.
- 4) Criminal actions for people who do not report the existence of the crime of narcotics (Article 131). Shall be punished with imprisonment of 1 (one) year or a maximum fine of Rp.50,000,000.00 (fifty million rupiah).
- 5) Criminal Actions Against Attempt and Criminal Consensus Committing the Crime of Narcotics and Precursors (Article 132) Paragraph (1), shall be punished with the same imprisonment in accordance with the provisions referred to in these Articles. Paragraph (2), imprisonment and a fine. the maximum is added by 1/3 (one-third).
- 6) Criminal acts for ordering, giving, cajoling, coercing with violence, trickery, seducing children (Article 133) Paragraph (1), shall be punished with the death penalty or life imprisonment, or imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years and a fine of at least IDR 2,000,000,000.00 (two billion rupiah) and a maximum of IDR 20,000,000,000.00 (twenty billion rupiah). Paragraph (2), shall be punished

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<sup>3</sup> Siswanto Sunarso, *Penegakan Hukum dalam kajian Sosiologis*, Raja Grafindo Persada, Jakarta, 2004, p. 1.

<sup>4</sup> Lydia Harlina Martono dan Satya Joewana, *Op.Cit*, p. 19

<sup>5</sup> Rio Varieza. 2015. <http://youthproactive.com/201503/speak-up/permasalahan-penyalahgunaan-narkoba-di-indonesia/>.

- with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least Rp1,000,000,000.00 (one billion rupiah) and a maximum of Rp.10,000,000,000 , 00 (ten billion rupiah).
- 7) Criminal action for Narcotics Addicts who do not self-report (Article 134) Paragraph (1), shall be punished with a maximum imprisonment of 6 (six) months or a maximum fine of Rp.2,000,000.00 (two million rupiah). Paragraph (2), shall be punished with a maximum imprisonment of 3 (three) months or a maximum fine of Rp1,000,000.00 (one million rupiah).
  - 8) Criminal Actions for Pharmaceutical Industry Managers Not Carrying Out Their Obligations (Article 135). Shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 7 (seven) years and a fine of at least Rp. 40,000,000.00 (forty million rupiah) and a maximum of Rp. 400,000,000.00 (four hundred million rupiah).
  - 9) Criminal action against the proceeds of the crime of Narcotics and / or Narcotics Precursor (Article 137) letter (a), shall be punished with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least Rp1. 000,000,000.00 (one billion rupiah) and a maximum of Rp.10,000,000,000.00 (ten billion rupiah). Letter (b), shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 10 (ten) years and a fine of at least IDR 500,000,000.00 (five hundred million rupiah) and a maximum of IDR 5,000,000,000.00 (five billion rupiah).
  - 10) Criminal Actions Against Persons Obstructing or Complicating Investigation, Prosecution and Case Examination (Article 138) Is punished with imprisonment of up to 7 (seven) years and a maximum fine of Rp. 500,000,000.00 (five hundred million rupiah).
  - 11) Criminal action for a pilot or pilot captain who does not comply with the provisions of Article 27 and Article 28 (Article 139) shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 10 (ten) years and a fine of at least Rp 100,000,000.00 ( one hundred million rupiah) and a maximum of Rp1,000,000,000.00 (one billion rupiah).
  - 12) Criminal Actions for PPNS, Police Investigators, BNN Investigators who Do Not Implement Provisions on Evidence (Article 140) shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 10 (ten) years and a fine of at least IDR 100,000,000.00 (one hundred million rupiah) and a maximum of Rp1,000,000,000.00 (one billion rupiah).
  13. Criminal action for the Head of the Public Prosecutor's Office for Not Implementing the Provisions of Article 91 Paragraph (1) (Article 141) shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 10 (ten) years and a fine of at least IDR 100,000,000.00 ( one

hundred million rupiah) and a maximum of Rp1,000,000,000.00 (one billion rupiah).

- 13) Criminal action for laboratory officers who falsify the results of testing (Article 142), shall be punished with imprisonment of up to 7 (seven) years and a maximum fine of Rp. 500,000,000.00 (five hundred million rupiah).
- 14) Criminal action for witnesses who provide incorrect information (Article 143) shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 10 (ten) years and a fine of at least Rp. 60,000,000.00 (sixty million rupiah) and a maximum of Rp. 600,000,000.00 (six hundred million rupiah).
- 15) Criminal Actions for Anyone Who Commits Repetition of a Criminal Offense (Article 144) shall be punished with the maximum sentence plus 1/3 (one third).
- 16) Criminal acts committed by the Head of the Hospital, the Head of the Institute of Science, the Head of the Pharmaceutical Industry, and the Head of the Pharmaceutical Trader (Article 147) are punished with imprisonment for a minimum of 1 (one) year and a maximum of 10 (ten) years and a fine of at least Rp. 100 .000,000.00 (one hundred million rupiah) and a maximum of Rp1,000,000,000.00 (one billion rupiah).

Prevention of drug abuse should be done immediately with anticipatory measures, including primary prevention, secondary prevention and tertiary prevention, such as the following:

- 1) Primary Prevention: prevention aimed at individuals, groups or the wider community who have not been exposed to drug abuse cases. Prevention is provided by providing information and education including alternative activities so that they avoid drug abuse and strengthen their ability to resist.
- 2) Secondary prevention: prevention aimed at individuals, groups or the wider community who are vulnerable to or more indicative of drug abuse cases. This prevention is carried out through education, counseling, and training so that they stop, then carry out positive activities and keep them prioritizing health.
- 3) Tertiary prevention: prevention aimed at those who are already users or who have suffered from addiction. Prevention can be done through medical services, rehabilitation, and keeping them from relapses and withdrawals.

The Lampung provincial government together with the BNN then synergized in the implementation of P4GN as a preventive step, namely efforts to prevent narcotics abuse by monitoring channels that can be used by prisoners or detainees, such as monitoring porters and visiting places. Then as a repressive step, namely efforts to improve and enforce the law against factual threats with firm sanctions. The forms include, among others, reporting to the authorities, silent



confinement, not being granted rights remission, not being allowed to be visited within a certain time, and others.

The regulation regarding the Prevention of Abuse and Illicit Narcotics Abuse (P4GN) especially in Lampung province is based on the existence of narcotics cases that are rife in the community. As revealed by the Head of the Lampung Provincial National Narcotics Agency (BNNP), Police Brigadier General I Wayan Sukawinaya The number of cases of illicit trafficking and narcotics abuse in Lampung Province during 2020 has increased. The best-selling narcotics for circulation and smuggling in Lampung Province is a type of crystal methamphetamine then the second is marijuana. Then more than that the Head of the Provincial National Narcotics Eradication Agency (BNNP) Lampung, Kombes Pol Henry Budiman, revealed that Lampung province itself is currently in the top 15 in narcotics abuse in Indonesia, if the prevalence level of abuse, Lampung is now nationally ranked 12 levels out of 34 provinces.

The main objective of the Prevention of the Eradication of Abuse and Illicit Narcotics (P4GN) program is to empower all the potential that exists in all levels of society so that consciously carry out movements to oppose / reject drug abuse and trafficking. The Prevention of the Eradication of Abuse and Illicit Narcotics (P4GN) revolves around two things, namely demand reduction (suppressing / reducing demand) and supply control (monitoring supplies / suppressing / reducing supply). The Prevention Program for the Eradication of the Abuse and Illicit Narcotics (P4GN) is implemented nationally and in international cooperation. Included in the demand reduction program are: prevention programs (information / counseling, community development) and therapy & rehabilitation programs. Meanwhile, the supply control program consists of the following programs:

- a. Market supervision and legal channels for narcotics, psychotropic substances and precursor group drugs in order to ensure availability for medicinal and science and technology purposes.
- b. Eradicating dark lines with the Law Enforcement Program and the Alternative Development Program.
- c. The Program of Harm Reduction is to reduce the negative effects of drug abuse.
- d. Eradicating illicit production and cultivation.

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- b. The Harm Reduction Program is to reduce the negative effects of drug abuse.

- c. Wiped out illicit production and planting.

Law enforcement against crimes in Indonesia in which the government as the organizer of the life of the state needs to provide protection and welfare for the community through various policies that are agendas in the national development program. This government policy is incorporated into *social policy*. One part of this social policy is the *law enforcement policy*, including the *legislative policy*. Meanwhile, the *criminal policy* itself is part of the *law enforcement policy*.<sup>6</sup>

### **Inhibiting Factors in Preventing the Eradication of Abuse and Illicit Narcotics (P4GN) Implemented by the Lampung Provincial Government and BNN**

The inhibiting factors for law enforcement in general can be seen from several factors, according to Soerjono Soekanto there are 5 factors inhibiting law enforcement including :

1. Legal Factors, regulations and laws.
2. Enforcement Factors, the parties who form or apply the law.
3. Infrastructure and facilities Factors to support law enforcement facilitators.
4. Community factors, the environment where the law is applied and enforced.
5. Cultural Factors, is every work, creativity, and feeling created in the association life.<sup>7</sup>

Five factors of law enforcement are closely related to one another, therefore the essence of law enforcement is also a measure of the effectiveness of law enforcement.<sup>8</sup>

#### 1) Law Factor

The practice of law enforcement in the field, there are times when there is a conflict between legal certainty and justice, this is because the conception of justice is an abstract formula, while legal certainty is a normative procedure. Therefore, a policy or action that is not completely based on law is something that can be justified as long as the policy or action is not against the law. So in essence, includes not only *law enforcement*, but also *peace maintenance*, because law enforcement is actually a process of harmonizing the values of principles and real patterns of behavior aimed at achieving peace.

#### 2) Law Enforcement Factor

Legal function, mentality or personality of law enforcement officers play an important role. If the regulations are good, but the quality of officers is not good, then there is a problem. Therefore, one of the keys to success in law enforcement is the mentality or personality of the law enforcer.

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<sup>6</sup> Mahmud Mulyadi, Criminal Law Politics, lecture materials at the Faculty of Law, University of North Sumatra, North Sumatra: 2011, p. 6.

<sup>7</sup> Soerjono Soekanto, *Op.Cit.* 2014, p. 8.

<sup>8</sup> *Ibid*, hlm 9

The obstacles that may be encountered in the proper application of law enforcers can come from themselves or from the surrounding environment. The obstacles that need to be overcome are:

- a. Limited ability to put oneself in the role of the other party with whom he interacts;
- b. The level of aspiration is not high yet;
- c. There is so little excitement to think about the future that it is very difficult to make projections;
- d. The absence of the ability to postpone the fulfillment of certain needs, especially material needs; and
- e. Lack of innovation, which is actually a pair of conservatism.<sup>9</sup>

In this case includes barriers in prevention programs pemberantasan abuse and peredaran narcotics (P4GN) held the provincial government of Lampung and BNN and includes:

- 1) Facilities and Amenities Factors
- 2) Barriers ability of the investigator in the investigation process
- 3) Society Factors
- 4) Deeds Abuse of Narcotics itself
- 5) Infrastructures

The existence of acts of abuse and illicit narcotics trafficking due to two factors, namely external factors and internal factors, namely:

1. Internal Factors
  - a. Personality Factors
  - b. Family Factors
  - c. Economic Factors
2. External Factors
  - a. Drug Factors
  - b. Environmental Factors
  - c. Friend Factors

Ineffective implementation of a policy or regulation can also be caused by several things, namely:<sup>10</sup>

- a. Mentality and morale of the related officials are not sufficient;
- b. The welfare of officers who deal with drug problems is low, so they are often tempted to cooperate with syndicates to earn money;
- c. The number of officers is inadequate compared to the number of people and the size of the area;
- d. Inadequate professionalism of the apparatus;
- e. Inadequate facilities / equipment;

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<sup>9</sup> Soerjono Soekanto, *Op.Cit.* 2014, p 34-35

<sup>10</sup> Gatot Supramono, *Op. Cit.* p. 235

- f. Poor coordination between agencies;
- g. The level of public knowledge about narcotics is still very low. Narcotics crime is very dangerous to the survival of the younger generation, therefore this crime needs to be tackled and eradicated.

Based on this, the researchers concluded that there were inhibiting factors in the prevention program for the eradication of narcotics abuse and illicit trafficking (P4GN) carried out by the Lampung provincial government and the BNN based on several factors, both factors from infrastructure, facilities, community and external as well as internal to each individual. This means that in carrying out the prevention program for the eradication of narcotics abuse and illicit trafficking (P4GN), it must minimize inhibiting factors and emphasize driving factors so that these efforts can be carried out properly and meet the goals and commitments of the Lampung Provincial Government and BNN.

### **III. CONCLUSION**

Synergy between Lampung province and BNN in P4GN is the implementation of programs in the policy implementation process to achieve policy objectives. In this case the National Narcotics Agency (BNN) program for the Prevention and Eradication of Abuse and Illicit Drugs (P4GN) should be able to achieve its goal, namely to reduce the number of drug abuse among the younger generation. That in an implementation it is necessary to achieve the objectives of a policy and to achieve changes mandated by policy decisions.

The inhibiting factor for the implementation of the Prevention Program for the Eradication of Abuse and Illicit Narcotics (P4GN) is that there are 2 factors, namely internal factors and external factors. The obstacles in tackling narcotics abuse in Banda Aceh are many, the first is a lack of community participation, the second is that people do not understand the duties of the National Narcotics Agency, third for drug users are still considered taboo by the community, because people feel ashamed that their families are connected to drugs, besides This is why BNN is constrained in arresting drug users, lack of rehabilitation places, for families who fear their children will be arrested, even though in fact, if arrested does not mean imprisoned, but there is a possibility that it can be rehabilitated and outpatient, this makes BNN constrained in prosecuting drug users because it is from the family does not want to cooperate with BNN.

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