



LEGAL PROTECTION FOR REPORTERS OF DRUG CRIMES BASED ON LAW NUMBER 35 OF 2009

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Article Info	Abstract
Article History Received : 2024-09-03 Revised: 2024-09-05 Published: 2024-10-01 Keywords: <i>Legal protection.</i> <i>Reporter, Crime,</i> <i>Narcotics.</i>	The participation of the community in helping law enforcement officials to prevent and eradicate narcotics abuse is expected to make a very large contribution, considering that the number of personnel of the apparatus itself is very minimal if it has to supervise the illicit circulation of narcotics in the territory of Indonesia which consists of thousands of islands. Based on the actions that will threaten the safety of the witness, it is necessary to have a guarantee of security and protection from the authorities. For this reason, without being asked for witnesses, the authorities must provide security guarantees and the best protection for witnesses if they later experience threats or intimidation from narcotics syndicates.

I. INTRODUCTION

The problem of narcotics is increasing day by day, this is proven by the existence of smuggling, illegal trade, arrests, detentions related to the narcotics problem that have been carried out both in Indonesia and abroad. Without regard for the physical and spiritual lives of people who are victims of narcotics, these hard drug traders seek to gain as much profit as possible through illegal trade or large-scale smuggling. The huge profits from this trade attract the attention of narcotics traders. (MEDAN, n.d.)

Cases of drug abuse cannot be allowed to continue because the increasing development of narcotics can not only directly damage the physical and mental health of its users, but its impact can threaten economic development and social progress.

Drug abuse is a criminal act and misappropriation that endangers the physical and mental safety of the user and also the community in the environment around the user. If we do not eradicate this crime together, it is certain that many victims will fall, especially young people. The increase in drug abuse is generally caused by 2 possibilities, including:

1. Income that guarantees prosperity for dealers, especially producers, while for drug users it promises a peaceful life, and a burden of mind that is ignored. Drugs also promise no fear of being caught, and will even create a sense of courage. In fact, the use of drugs that are not supervised by

a doctor, results in very dangerous effects because it is certain that users will become dependent and will justify any effort to obtain drugs without regard to legal consequences, social consequences.

2. Following the development of the times, narcotics crimes in Indonesia are increasing and this has become one of the focuses of society which always discusses and publishes, the Government also carries out supervisory control of all activities directly related to narcotics. (Siregar, Adrian, and Rambe 2023)

One of the roles of the community is to report cases of drug abuse to law enforcement officers or authorized officials if they know or suspect a drug crime. Assisting law enforcement officers in revealing drug crimes that have occurred is an obligation of every citizen, but on the other hand, if you report the incident, it is possible that the people involved in the incident will feel unhappy or angry with the person who testified. In general, people involved in drug trafficking do not act alone, they are friends, in groups or it is estimated that this crime is also organized, where there are those who act as suppliers of raw materials, producers, and dealers. If it is reported and they feel that all their activities will be exposed, it is very likely that those involved will not only be angry, but more than that, they will take the law into their own hands by taking actions that have bad

consequences for the reporter and the witnesses they know.(Herindrasti 2018)

The problem related to the guarantee of safety for reporters of narcotics crimes at the examination stage is an effort by the State in implementing productive legal literature and to redesign the legal organization that is upheld by human resources and public awareness of the law that continues to develop, in addition to the improvement of applicable legal materials that are coordinated and continue to change according to the demands of existing needs, The source of all regulations in Indonesia is Pancasila, and at the same time becomes the premise of positive regulations in Indonesia and the essence of the positive legal mindset in Indonesia which is the reason for discussing issues related to the safety of reporters of crimes, especially narcotics.(AISYA 2023)Regarding the guarantee of protection for those who reveal drugs, it depends on the purpose of its use. Evidence of the increasing circulation of narcotics in Indonesia, we can see from the data presented by the BNN at the International Anti-Narcotics Day event.

In accordance with the background above, the author takes several problem formulations as follows:

1. How are the legal arrangements for legal protection for those reporting narcotics crimes?
2. What form of legal protection is provided for those reporting narcotics crimes?

II. RESEARCH METHODS

The research method used in this study is normative juridical, namely research that in its study refers to and is based on legal norms and rules, applicable laws and regulations, legal theories and doctrines, jurisprudence, and other library materials that are relevant to the research topic. The collection of legal materials is carried out through literature studies, namely through a study of regulations, as well as various libraries that are relevant to the research object.(Indra Utama Tanjung 2024)

III. RESULTS AND DISCUSSION

A. Overview of Narcotics

a) Definition of Narcotics

According to Law Number 35 of 2009 Article (1), narcotics are substances or drugs derived from plants or non-plants, either synthetic, which

can cause decreased or altered consciousness, loss of feeling, reduced or even eliminated pain, and can cause dependency.(Dalimunte, Aspan, and Siregar 2024)Therefore, if this group of substances is consumed by humans either by inhalation, smoking, swallowing, or injection, it will affect the central nervous system (brain) and will cause dependence. As a result, the brain's working system and the vital functions of other organs such as the heart, breathing, blood circulation and others will change to increase when consuming and will decrease when not consumed (become irregular).

b) Classification of Narcotics

In Article 6 paragraph (1) and Article 7 of Law Number 35 of 2009 concerning Narcotics, it is explained that Narcotics are divided into 3 (three) Groups and that Narcotics can only be used for health services or the development of science and technology, therefore the explanation of each of these groups is based on the risk of dependency, namely:

a) Class I Narcotics

Class I narcotics such as marijuana, opium, and coca plants are very dangerous if consumed because they have a high risk of causing addiction, so Class I narcotics are prohibited from being used for health service purposes. And in limited quantities, Class I narcotics can be used for the development of science and technology after obtaining the Minister's approval on the recommendation of the Head of the Food and Drug Supervisory Agency (hereinafter abbreviated as BPOM).

b) Class II Narcotics

Class II narcotics can be used for medical purposes and based on medical indications, and doctors can provide Class II narcotics in limited quantities and certain preparations to patients in accordance with the provisions of laws and regulations, some of which are Morphine, Alfaprodina, and others. Class II also has a high potential to cause dependency.

c) Narcotics Class III

Class III narcotics have a relatively low risk of dependency and are widely used for treatment and therapy, some of which are Codeine, Propyram, Ethylmorphine.

c) Understanding Illegal Drug Trafficking

In Law Number 35 of 2009 Article (1) paragraph (6) it is stated that the Illegal Trafficking of Narcotics and Narcotics Precursors is any activity or series of activities carried out without permission or against the law which is

determined as a criminal act involving Narcotics and Narcotics Precursors.(MEDAN, n.d.)

B. Overview of Legal Protection

a) Understanding Legal Protection

Legal Protection is an action or effort to protect society from arbitrary actions by authorities that are not in accordance with the rule of law, to create order and peace so that humans can enjoy their dignity as human beings.(Tejaningsih 2016)

Legal protection is a narrowing of the meaning of protection, in this case only protection by law. Protection provided by law is also related to the existence of rights and obligations, in this case owned by humans as legal subjects in their interactions with other humans and their environment.(Mulyadi 2012)As a legal subject, humans have the rights and obligations to carry out legal actions.

b) Forms of Legal Protection

According to Hadjon, legal protection for the people includes two things, namely:

1. Preventive Legal Protection, namely a form of legal protection where the people are given the opportunity to submit objections or opinions before a government decision takes definitive form.(Pinasthika 2014)In this preventive legal protection, legal subjects are given the opportunity to file objections or opinions before a government decision gets a definitive form. The goal is to prevent disputes from occurring. Preventive legal protection is very important for government actions that are based on freedom of action because with preventive legal protection the government is encouraged to be careful in making decisions based on discretion. In Indonesia there are no specific regulations regarding preventive legal protection.
2. Repressive Legal Protection, namely a form of legal protection which is more aimed at resolving disputes. Repressive legal protection aims to resolve disputes. Handling of legal protection by the General Court and Administrative Court in Indonesia is included in this category of legal protection. The principle of legal protection against government actions is based on and derived from the concept of recognition and protection of human rights because according to history from the west, the birth of concepts about

recognition and protection of human rights was directed at restrictions and the placement of obligations of society and government. The second principle underlying legal protection against government actions is the principle of the rule of law. Associated with the recognition and protection of human rights, the recognition and protection of human rights has a primary place and can be associated with the objectives of the rule of law.

C. Basic Regulations Governing Legal Protection for Reporters of Narcotics Crimes

1. Law Number 35 of 2009

In Indonesia, the law that regulates the importance of legal protection given to those reporting narcotics crimes is stated in Law Number 9 of 1976 which was later amended to become Law Number 35 of 2009, namely in Article 100 paragraph (1) and (2) which states that "(1) witnesses, reporters, investigators, public prosecutors and judges who examine narcotics and narcotics precursor criminal cases and their families must be given protection by the state from threats that endanger themselves, their lives and/or their property, both before, during and after the case examination process.(Saputra and Chalim 2018)(2) Further provisions regarding the procedures for protection by the state as referred to in paragraph (1) are regulated by Government Regulation."

2. Law Number 31 of 2014

Law Number 31 of 2014 is an amendment to Law Number 13 of 2006 concerning Protection of Witnesses and Victims. The importance of legal protection given to the Reporter is stated in Article 5 which states that the Reporter has the right to obtain protection for the security of his/her person, family, and property, and to be free from threats related to the testimony that he/she will, is or has given.(Yanto, Hikmah, and Aqil 2023)

3. Government Regulation Number 40 of 2013

In Government Regulation Number 40 of 2013, the obligation to provide Legal Protection is stipulated in Article 35 paragraph (1) which

reads, "Protection must be provided by the state to Witnesses, Reporters, BNN Investigators, Indonesian National Police Investigators, certain civil servant investigators, public prosecutors and judges who examine Narcotics and Narcotics Precursor Crime cases and their families from potential threats that endanger themselves, their lives and/or their property, both before, during and after the case examination process.(Sutarli and Kurniawan 2023)

D. Forms of Legal Protection for Narcotics Crime Reporters

Becoming a reporter of a narcotics crime is a difficult decision because of the threat, security, and comfort of oneself and one's family being disturbed and possibly in danger. Moreover, if the crime being revealed is a major narcotics crime, where not only the perpetrator, but also the family and networks of the perpetrator who feel disadvantaged by the report, will provide threats or intimidation to the reporter or his family. The provision of protection of a sense of security that can be given to the reporter can be in the form of physical and psychological protection, as well as protection of the Reporter's Legal Status.

The provision of physical protection for informants can be adjusted to Law Number 35 of 2009 which has been regulated in Article 100 paragraph (1) "Witnesses, informants, investigators, public prosecutors, and judges who examine cases of narcotics and narcotics precursor crimes and their families must be given protection by the state from threats that endanger themselves, their lives and/or their property, both before, during and after the case examination process." As well as Government Regulation Number 40 of 2013 paragraph (1) and Law Number 31 of 2014 Article 5.

Article 99 of Law Number 35 of 2009 states that during a court hearing, witnesses and other people related to narcotics and narcotics precursor crimes who are being examined are prohibited from mentioning the name and address of the reporter or anything that could possibly know the reporter's identity. And in Government Regulation Number 40 of 2013 Article 37 also states that protection is given to the

reporter in the form of security for themselves, their families and their property; confidentiality of the identity of witnesses and reporters, and/or the provision of witness and reporter statements in the case examination process without meeting the suspect/defendant.(Pratiwi and Saraswati 2021)

Not only physical protection, the state is also required to provide protection to the Legal Status of the Reporter, this is stated in Law Number 31 of 2014 Article 10 which states that Witnesses, Victims, Witnesses, Perpetrators, and/or Reporters cannot be prosecuted, either criminally or civilly, for testimony and/or reports that will, are being or have been given, unless the testimony or report is not given in good faith. However, if during the time of being a Reporter someone defames the Reporter or reports the Reporter for defamation or others, the report on the Reporter will be suspended/postponed until the case he/she reported is completed or obtains a permanent law.

In addition to protection, the Reporter will also be given an Award by the State for their courage in reporting Narcotics Crimes, this is stated in Article 109 of Law Number 35 of 2009 which reads, "The Government provides awards to law enforcers and the Community who have contributed to efforts to prevent, eradicate abuse and illicit trafficking of Narcotics and Narcotics Precursors." And continued in Article 110: The award as referred to in Article 109 is carried out in accordance with the provisions of laws and regulations. The award is one of the government's efforts to reduce the number of Narcotics Abuses in Indonesia.

E. Sanctions for Narcotics Crimes According to Law Number 35 of 2009

Article 7 of Law Number 35 of 2009 states that narcotics are only used for the benefit of health services and/or the development of science and technology. Furthermore, Article 8 of the law explains that it limits narcotics class I which are only used for the development of science and technology and for diagnostic reagents, as well as laboratory reagents after obtaining material

approval on the recommendation of the head of the Food and Drug Supervisory Agency.

So if someone uses narcotics in violation of Article 7 and/or Article 8 of Law Number 35 of 2007, then the perpetrator has no rights and his/her actions are against the law. In this case, the type of sanction given for abuse is rehabilitation, this is in accordance with Article 54 of Law Number 35 of 2009 concerning Narcotics which states: "Drug addicts and victims of narcotics abuse are required to undergo medical rehabilitation and social rehabilitation." (Wijaya and Ruslie 2024)

Criminal sanctions in accordance with Law Number 35 of 2009 in the provisions of Article 127 paragraph (1) of Law Number 35 of 2009 concerning Narcotics state that any misuse:

- a) Class I narcotics for personal use are punishable by a maximum prison sentence of 4 (four) years;
- b) Class II narcotics for personal use are punishable by a maximum prison sentence of 2 (two) years;
- c) Class III narcotics for personal use are punishable by a maximum prison sentence of 1 (one) year. (Hadi 2019)

IV. CONCLUSIONS AND RECOMMENDATIONS

Legal protection for someone who reports a Narcotics Crime is regulated in Law Number 35 of 2009. Where the form of protection that will be provided by the state is already complex from protection to the physical, psychological and legal status of the reporter. So it is hoped that the community will no longer need to hesitate or be afraid to immediately report if they know of a narcotics crime around the community. Because the state has guaranteed protection for the community, and also the existence of reports from the community will help the role of investigators in uncovering narcotics crimes in Indonesia which will also be able to save this nation, especially the younger generation from the dangers of narcotics.

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