

PROTECTION GUARANTEES FOR WHISTLEBLOWERS REGARDING INFORMATION ON NARCOTICS ABUSE BY THE COMMUNITY

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Abstract

Purpose of the article This is to provide an overview of drug abuse regulations in Indonesia and explain protection for whistleblowers related to providing information on drug abuse. The methodology used in the article, which discusses the guarantee of protection given to whistleblowers regarding the provision of information about drug abuse, uses normative legal research, using a statutory legal approach in analyzing the legal issues discussed. In the end, specifically, Drug abuse is regulated in the Narcotics Law. Drug abuse is also regulated by other regulations, namely Supreme Court Circular No. 4 of 2010. However, the Supreme Court Circular only regulates the "placement of drug abusers, victims of abuse and drug addicts for medical and social rehabilitation." Apart from that, the form of regulation is still in the form of Supreme Court Circular which is limited to the scope of the Supreme Court Law. So far, there have been no special regulations that guarantee the protection of whistleblowers, especially against drug crimes. Therefore, these regulations must be presented as a law to ensure legal certainty. However, criminal reporting is regulated by Supreme Court Circular No. 4 of 2011. However, this regulation must provide certainty about what guarantees the state will provide to these whistleblowers. There still need to be more standards in the Narcotics Law and Supreme Court Circular No. 4/2011.

Keywords: *Guarantee of Protection, Whistleblowers, Narcotics Abuse*

INTRODUCTION

Based on Pancasila and the 1945 Constitution of the Republic of Indonesia, Indonesia's national development goals are "an Indonesian society that is as fair, prosperous, prosperous and peaceful as possible" (Muhammad Chairul, 2018: 1-12). Today, the world is developing, and so is crime. For example, in society, one of them is drug crime. Not only individuals commit these crimes, but also certain social groups. Drug abuse hurts life in society, nation, and state. The problem facing the government in this era is drug addiction (narcotics and narcotic substances/dangerous substances). Substance abuse or drug addiction refers to the process of using certain chemicals that have a "pleasant effect on the brain" (Yahya Muhammed, 2018:12).

Narcotics are drugs or toxic substances, natural, synthetic, or even semi-synthetic, which can cause loss of consciousness, hallucinations, and increased agitation. Medication itself is needed both for treatment and to expand knowledge, and this means that the method of use must be official and under the direct supervision of a "doctor or pharmacist."

Drug abuse is a crime and fraud that endangers the physical and mental safety of those who use it and the surrounding community. If we do not eradicate this crime together, there will inevitably be many victims, especially young people. The problem of drug addiction in Indonesia in this era is a significant concern. It can be caused by several factors, namely "Indonesia's location between two continents, namely Asia and Australia, between two

oceans, namely the Pacific and India, the development of science and technology, the very significant impact of globalization, moralistic values in the dynamics of black business targets" (Astutuk, 2022:66-82).

Drug abuse is not only a crime but also dangerous to health. Drug addicts make their lives full of addiction to prohibited drugs, even though they are not cheap and difficult to find. Treatment is complex, takes much time, and requires special attention. As the era of drug crime in Indonesia continues to increase and the focus of society is often widely discussed and publicized, the government also controls all activities directly related to drugs. Evidence of the increasing spread of drugs in Indonesia can be seen from documents submitted by the National Anti-Narcotics Agency at the International Anti-Drug Day event in 2021 until mid-2022. National Anti-Narcotics Agency Republic of Indonesia collaborated with "The Indonesian Police Force, Indonesian National Armed Force, and Customs" to successfully find more than 50,000 drug crimes.

In uncovering and solving drug crime cases, this tool gets information not only from the criminal syndicates that are arrested. However, the role of the community in providing assistance to law enforcement officers in preventing and eradicating illegal drugs is enormous, considering that the number of supplier personnel is minimal when it comes to controlling the distribution of drugs in this area, which is Indonesia as a country of a thousand islands.

Security guarantees and official protection are required based on actions that threaten the security of witnesses. Therefore, the authorities, without questioning witnesses, are obliged to guarantee the witness a sense of security and the best sense of protection if they subsequently have to experience terror or intimidation from drug syndicates. Leden Marpaung said, "The witnesses' statements were accepted without any pressure from anyone and in any form." "The importance of guaranteeing security and protection, so that people are not afraid to report drug crimes, and with real guarantees felt by witnesses, more people will have the courage to become witnesses."

In line with this, the regulation "Article 35 paragraph (1) Government Regulation Number 40 of 2013 concerning the Implementation of Law Number 35 of 2009 concerning Narcotics" states that the state must protect witnesses, journalists, National Anti-Narcotics Agency researchers, National Police investigators, investigators, specific officials, prosecutors and judges who investigate drug and pre-narcotics criminal cases and their families, the state is obliged to protect themselves, their lives and/or property from threats both before and during it. And after the case study process. However, in reality, these provisions do not explain the extent to which the state provides guarantees to criminals as suppliers, thus creating a standard gap. It impacts public ignorance, and some fear getting into legal trouble. Apart from that, people reporting drug addiction have multiple interpretations of the provisions of Article 131 of the Narcotics Law, giving rise to multiple interpretations in determining drug offenders because the recipient of the information must see the incident directly or can only hear the information from other parties which will be announced later. It makes Article 131 of the Narcotics Law a trap for criminals, and there is no legal certainty regarding the implementation of community social control in preventing

drug crimes. On the one hand, the public must report it and not ignore it. However, on the other hand, the current regulations do not provide clear regulations regarding the extent of protection provided by the state to whistleblowers of drug crimes. Therefore, this article discusses how to ensure the protection of journalists when informing the public about drug abuse.

This research is an original research paper that is expected to contribute and play a role in improving the research or development process. Several previous studies examining drug abuse include: first, the Construction Journal with the title "Factors Causing Narcotics Abuse and Circulation in the Legal Area of the Denpasar Police" (Suariawan, 2022:444-449). Second, it was found in Academic Nuance: Journal of Community Development titled "Legal Protection for Student Age Victims of Narcotics Abuse in the Malang Police Legal Area" (Syafiudin, 2023:209-222). The third is the Normative Journal titled "Weightening the Punishment of Law Enforcement Officers as Narcotics Dealers" (Tumanggor, 2022:146-149).

LITERATURE REVIEW

Narcotics is an abbreviation for narcotics, psychotropics, and other addictive substances. 1 Etymologically, drugs or narcotics come from the English words "narcose" or "narcosis," which means to put to sleep and anesthesia. Narcotics comes from the Greek word "narke" or "narkam", which means being drugged so you do not feel anything. Narcotics comes from the word narcotic, which means something that can relieve pain and can cause a stupor effect, anesthetic agents, and anesthetics.

Based on Law No. 22 of 1997, types of narcotics can be divided into three groups. Category I: narcotics that can only be used for scientific purposes, are not intended for therapy, and have a very high potential to cause dependence. For example, heroin, cocaine, marijuana, and others. Group II: Narcotics that have medicinal properties are used as a last resort and can be used in therapy, are aimed at developing science, and have a high potential for causing dependence. For example, morphine, pethidine, narcotic derivatives/salts in this group, and others. Group III: Drugs that have medicinal properties are widely used in therapy and, aim to develop science, and have a mild potential to cause dependence. For example, codeine, narcotic salts in this group, and others.

According to Soubar Isman in his book, the factors why someone uses drugs are:

1. Individual Factors
 - a. Usually, teenagers want to try new things.
 - b. His personality is weak, so it is easy for drug criminals to persuade him, so fortify yourself with faith and piety.
 - c. Eliminate problems or stress.
 - d. Following trends or fads means being called plebeian or not trendy if you do not consume drugs.
 - e. Want to be accepted by the group.
2. Environmental factor
 - a. Living in a drug-dark environment

- b. School in a drug-prone environment
 - c. Hanging out with drug users
 - d. Peer group encouragement
 - e. There is a less harmonious family.
3. Other Supporting Factors
- a. The drug syndicate's shrewdness is to develop its network by first being given freebies, secondly being used as a courier in exchange for drugs, and finally becoming addicted.
 - b. There is a growing myth that consuming drugs can increase energy.
 - c. The experience of someone who has used drugs.

METHOD

This study is normative juridical research, a procedure created to conduct research primarily on secondary materials (Ibrahim, J, 2017:57). This study is normative juridical research related to guaranteed protection for whistleblowers regarding information on narcotics abuse by the public. A study with a normative juridical type is also referred to as a research procedure that uses the logic of legal science from the normative side so that there is a truth that can then explain guaranteed protection for whistleblowers regarding information on narcotics abuse by the public. This study takes a statute or statutory regulation approach in studying the problem in the matter under study. The legal materials processed in this study originate from primary, secondary, and tertiary legal materials. The nature of this study is descriptive analysis, namely providing concepts related to the problems raised in this study and carrying out analysis of related legal policies in providing solutions to the problems raised.

RESULTS AND DISCUSSION

Regulations Related to Narcotics Abuse in Indonesia

Drug addicts are people who are addicted to consuming drugs or synthetic or semi-synthetic substances derived from plants, which reduce or change the user's consciousness, eliminate what the body can obtain, and use it illegally (Putra, 2022:1221-1228). Categories of drug users are explained in Articles 116, 121, 126, 127, 128, and 134 of the Narcotics Law. The Narcotics Law not only regulates drug addicts but also drug dealers who are included in the category of violent offenders (*Dader*) known in legal terminology but in this law, drug addicts or people with an addiction can be classified as perpetrators or victims because of drugs. Abusers are divided into two categories: those carried out by resellers and/or users. Seen directly, this law does not explain drug dealers in detail. However, it is indirectly and narrowly explained that drug dealers are people who are involved in the circulation and trafficking of drugs. However, in a broad sense, *drug trafficking* is defined as an activity that is oriented toward measuring buyers; the seller's goal is the distribution, storage, monitoring, delivery, and export and import of narcotic substances (Yuherawan, 2020: 177). Regarding dealers, it is regulated in the Narcotics Law in "articles 111 to 125".

The Narcotics Law falls under the concept of "strict liability," which includes absolute liability (Rofiq, 2023:319), which explains that someone who fulfills the elements of an

offense contained in the Narcotics Law can be held accountable for Article 4 of the Narcotics Law which explains the purpose of the Narcotics Law. to save Indonesian people who face the negative consequences of drug addiction (Fremmy, 2022:143).

Proving drug abusers as victims under the Narcotics Law is a complex matter, based on the need to prove that they were biased, deceived, coerced, and/or threatened when using drugs. So, the two-track system is considered correct, dividing it into two, where drug addicts as victims can be rehabilitated as a service (Sabariah, 2023:1945-1956). However, convicted drug addicts who are also drug dealers or only drug dealers can be sentenced to prison and serve time in detention or even the death penalty (Muhamad Fadel, 2023:180-188).

In essence, related explicitly to narcotics abuse, it is regulated in Law no. 35/2009 concerning Narcotics. Other regulations regulate narcotics abuse, namely "Supreme Court Circular No. 4 of 2010", but this Supreme Court Circular only regulates "the placement of abusers, abuse victims, and narcotics addicts into medical rehabilitation and social rehabilitation institutions." Apart from that, the form of regulation is still in the form of the Supreme Court Circular, whose scope is limited to the scope of the Supreme Court.

Protection Guarantee for Whistleblowers Regarding Information on Narcotics Abuse by the Community

People who file criminal complaints very often face terror and threats, especially if the person accused of the crime can be charged with a criminal complaint. At a basic level, the safety of the whistleblowers must be given freedom that they can utilize during the police process (Joice Soraya, 2022:15). One form of recognition for the whistleblowers is the existence of a security order, and this is by Article 28(g) of the 1945 Constitution which also states the importance of citizen security.

The implementation of legal protection for journalists is still being discussed because the spirit of protecting witnesses, victims, and journalists is very high. However, more provisions for journalists are needed to implement legal protection. The order to protect perpetrators of criminal acts is contained in Article 99 paragraph (1) of the Narcotics Law, which states that "in court hearings, witnesses and other people concerned with criminal cases of narcotics and Narcotics Precursors which are currently under investigation, are prohibited from mentioning the name and address of the complainant or things that provide the possibility of knowing the identity of the whistleblowers."

This article means that the state protects the safety of whistleblowers who have information about drug crimes so that the suspect does not know the name and address of the whistleblowers. The defendant or his network at the investigation level in the district court. After that, article 100 of the Narcotics Law regulates that witnesses, journalists, investigators, public prosecutors, and judges investigating narcotics and narcotics crimes and their families must be protected by the state from threats that could endanger their persons, lives, and/or property and before, during and after case investigation.

Regarding several orders regarding whistleblowers' protection and legal certainty and the existence of whistleblowers in the Narcotics Law itself, these issues need to be regulated

comprehensively and normatively for the whistleblowers themselves. Legal protection and security can be interpreted as orders based on legality, not law, and everything regulated is law. In all legal processes before the competent court regarding "reporting, investigation, investigation, process, and analysis during the trial," the applicant generally has legal protection even after the trial ends.

Based on his statement, the Petitioner has the right to receive adequate protection and a sense of security and is not aware of anything that poses a threat or causes danger to his rights and life and his family's safety. His role is as whistleblowers of all crime facts (Astuti, 2014: 1-15). Providing guarantees of legal certainty when reporting criminal acts carried out to judicial officials who have authority because certain groups are worried or afraid that their lives and bodies are threatened, plus the assumption that the community no longer feels worried (Surafli, 2016: 55).

Legal protection and security refer to legal means or protection which protects specific interests. In other words, the protected interests are legitimate and have legal certainty, namely the right to grow and be used by everyone (Wardani, 2017:288-296). In principle, certain whistleblowers must be protected by rights that can be exercised in their capacity in criminal proceedings. This protection is a recognition of their role in the action. Therefore, "Article 28 (g) of the 1945 Constitution also states the importance of protecting citizens, as explained below. Every person has the right to protection of himself, his family, honor, dignity, and property under his control, and has the right to feel safe and protected from the threat of fear of doing or not doing something which is a human right." Indonesia is still controversial because on the one hand the spirit of "protection of witnesses, victims, and whistleblowers" is very high, and on the other hand regulations regarding whistleblowers are inadequate, especially in the midst of efforts to protect justice.

Legal protection can be divided into two types. One of them is preventive legal protection. It is protection provided by the government to prevent the process of violating the law before it occurs. Prevention of violations, protection from coercion and oppression, and final protection in "fines, imprisonment and disputes or violations" (Purwanto, 2019: 113).

Based on this, it shows that legal protection covers all matters related to the protection of human dignity and respect for human rights offered by the government in the legal field. This study defines *legal protection* as a legal effort designed to provide protection to certain whistleblowers or whistleblowers to achieve the law's objectives. Supreme Court Circular No. 4/2011 regulates providers with the concept of crime reporting. A whistleblower or another term, namely Whistleblower, is defined by the Supreme Court Circular as "a person who knows about and reports the type of crime" described by the Supreme Court Circular. They have two roles, namely as whistleblowers, which are limited to reporting certain criminal acts, and whistleblowers not only give responsibility for reporting but also as witnesses. Technically, criminal complaints, whether minutes or witness statements, do not contain clear and comprehensive instructions regarding providing them with a protective bond.

The competence of whistleblowers and informants who act as witnesses must be differentiated from "the meaning of whistleblowers and witnesses in general." The differences between the qualifications of reported and general witnesses (unreported witnesses) also appear to cause differences in criminal cases. Based on "Article 1, Article 5 of Law Number 13 of 2006 and the general provisions of Law Number 31 of 2014", the Indonesia Witness and Victim Protection Agency (hereinafter abbreviated as IWVPA) acts as a witness and/or as applicable. Law, legal regulations, Duties, and authority in protecting victims and all other rights.

IWVPA's duties and authority are regulated by law. The main task of IWVPA itself is to provide a sense of protection and security to victims and witnesses, as well as people who know about the criminal act, by providing information on criminal cases, "Law no.31 of 2014" ensures a fair process for 13 law enforcement agencies. Law enforcement is referred to in "Law no.31 of 2014," namely "enforcement efforts and assistance to victims, witnesses and/or criminal acts committed by IWVPA." All institutions, especially state institutions, support the tasks and permits carried out by IWVPA. It must happen because it has become a public forum; issues related to protecting victims, witnesses, and perpetrators can only be handled effectively with multi-agency cooperation. What is clear is that IWVPA must form an institutional position based on interests, as implied in "Law no. 31 of 2014," as an independent and independent institution. It is also desirable that relations and coordination between bodies with relative authority be hampered when used for reporting and law enforcement.

Therefore, further regulations regarding guaranteed protection for whistleblowers, especially in narcotics crimes, are needed. It will undoubtedly help law enforcement in minimizing narcotics cases in Indonesia. These regulations need to be stated as a law to provide legal certainty. Even though this criminal reporting issue has been regulated in "Supreme Court Circular No. 4 of 2011". However, this regulation does not provide certainty regarding what guarantees the state gives these whistleblowers. So, there is still a vacuum in norms in both the Narcotics Law and "Supreme Court Circular No. 4 of 2011".

CONCLUSION

In particular, drug abuse is regulated in the Narcotics Law. Drug abuse is also regulated by other regulations, namely Supreme Court Circular No. 4 of 2010. However, the Supreme Court Circular only regulates the placement of drug abusers, abuse victims, and drug addicts for medical and social rehabilitation. Apart from that, the form of regulation is still in the form of Supreme Court Circular which is limited to the scope of the Supreme Court Law. So far, there have been no special regulations that guarantee the protection of whistleblowers, especially against drug crimes. Therefore, these regulations must be presented as laws to ensure legal certainty. However, criminal reporting is regulated by Supreme Court Circular No. 4 of 2011. However, this regulation does not provide certainty about the state's guarantees to these whistleblowers. There are still gaps in standards in the Narcotics Law and Supreme Court Circular No. 4/2011.

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