

**Legal Protection For Public Reporting Narcotics Criminal Acts In
Accordance With Articles 99 And 100 Of Law Number 35 Of 2009
Concerning Narcotics And Criminal Threats For Consent Of Narcotics
Criminal Action From Reconstruction Article 131 Of Narcotics Law Number
35 Of 2009.**

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ABSTRACT

Reporting Against Narcotics Offenders is the responsibility of all levels of society to support the eradication of narcotics crimes in accordance with the mandate of law number 35 of 2009, the ABSTRACT State is obliged to provide Legal Protection for layers of Society who carry out the obligation to report Narcotics Offenders according to Article 99 and 100 law number 35 of 2009 and the Obligation to Report Narcotics Addicts according to Government Regulation No. 25 of 2011, the State will provide strict sanctions for people who tolerate perpetrators of narcotics abuse in accordance with the reconstruction of Article 131 concerning Narcotics which is the legal umbrella or legality of punishment for anyone who knows and does not report the existence of a criminal event, but the explanation in this article still has unclear norms that have not been explained regarding the category of omission in the future which can lead to multiple interpretations. The research method used in this scientific work is the normative method. A person who does not report a criminal incident in the Criminal Code is explained as a deliberate intention to neglect his obligations as stipulated in the Law, which can be said to be omission.

Keywords : *Public, Reporting, Criminal, Act.*

ABSTRAK

Pelaporan Terhadap Pelanggar Narkotika merupakan tanggung jawab seluruh lapisan masyarakat untuk mendukung pemberantasan tindak pidana narkotika sesuai dengan amanat undang-undang nomor 35 tahun 2009, ABSTRAK Negara berkewajiban memberikan Perlindungan Hukum bagi lapisan masyarakat yang melaksanakan kewajiban melaporkan Pelanggar Narkotika sesuai Pasal 99 dan 100 undang-undang nomor 35 Tahun 2009 dan Kewajiban Melapor Pecandu Narkotika sesuai Peraturan Pemerintah Nomor 25 Tahun 2011, Negara akan memberikan sanksi tegas bagi masyarakat yang mentolerir pelaku penyalahgunaan narkotika sesuai dengan rekonstruksi Pasal 131 tentang Narkotika yang merupakan payung hukum atau sahnya pemidanaan bagi setiap orang yang mengetahui dan tidak melaporkan adanya suatu peristiwa pidana, namun penjelasan dalam pasal ini masih terdapat ketidakjelasan norma yang belum dijelaskan mengenai kategori pembiaran dalam masa depan yang dapat menimbulkan multitafsir. Metode penelitian yang digunakan dalam karya ilmiah ini adalah metode normatif. Seseorang yang tidak melaporkan suatu peristiwa pidana dalam KUHP dijelaskan sebagai kesengajaan untuk melalaikan kewajibannya sebagaimana diatur dalam Undang-Undang, yang dapat dikatakan sebagai pembiaran.

Kata kunci : *Publik, Pelaporan, Pidana, UU.*

A. Introduction

Narcotics crime is an extraordinary crime, the modus operandi is quite sophisticated and is constantly changing to avoid being tracked by law enforcement officials. The National Narcotics Agency of the Republic of Indonesia (BNN RI) as the leading institution in the Prevention and Eradication of Narcotics Abuse and Trafficking (P4GN) in Indonesia carries the HANI theme: "WORK FAST, WORK GREAT TO ERASURE DRUGS IN INDONESIA" as an acceleration of P4GN efforts that have been carried out by BNN RI with stakeholders and all elements of society. BNN RI with the Police, TNI, and Customs and Excise through law enforcement efforts have succeeded in uncovering 55,392 cases of drug crimes and 71,994 suspects, with drug evidence in the form of 42.71 Tons of methamphetamine; 71.33 tons of cannabis; 1,630,102.69 Ecstasy Pills; and 186.4 Kg of Cocaine.

Policies to tackle crime are an integral part of policies that are oriented towards providing public protection (social defense policy) which ultimately aims at the welfare of society. One of the policies made by the government to tackle the rampant illicit trafficking of narcotics is to directly involve the community in its supervision. The community has an obligation to report if they become aware of any use of narcotics that are not in accordance with procedures or regarding illegal possession of narcotics as stipulated in Law Number 35 the year 2009.

In Article 131 of Law Number 35 of 2009 concerning Narcotics. The social and cultural reactions of the Indonesian people, which are said to be developing countries, are the main reason that the awareness (social control) of fellow citizens is still less responsive in their supervision, in contrast to developed countries, where the people themselves obey and are already rational towards the rule of law. The criminalization of all people who do not report the existence of narcotics abuse as regulated by the supervisory function in law number 35 of 2009 Article 131 of the article is a Tool of Social Engineering in order to increase public awareness so that the function of legal certainty can be felt. Determination of a criminal incident is not without clear reasons, but must fulfill the elements

contained in the legislation in advance and also have a clear interpretation in each element of the article's sound.

Regarding the role of the community itself, it has been regulated in general in CHAPTER XIII Regarding Community Participation, Law no. 35 of 2009 concerning Narcotics, this law determines that the public can report narcotic crimes as stated in Article 107 of Law No. 35 of 2009 concerning Narcotics, Article 107. "The public can report to the authorized official or BNN if they know of any abuse or illicit traffic of Narcotics and Narcotics Precursors" This is one form or form of community participation in eradicating narcotics abuse and crime. However, it is ironic to know that until now the existence of Law Number 35 of 2009 concerning Narcotics, especially regarding Articles 131 and 134 paragraph (2) concerning the role of the community in reporting the existence of a crime of Narcotics has not raised public awareness in eradicating Narcotics abuse syndicates. Article 131 of Law No. 35 of 2009 concerning Narcotics. The article implies that everyone who knows that a narcotic crime has occurred is obliged to report it to the authorities. The formulation of Article 131 gives rise to several interpretations in it, regarding whether a person who is obliged to report this must see it directly or or is it sufficient just by receiving information from other people that he must report it to the authorities. Therefore, a clear classification is needed regarding the category of omission of a crime in Article 131, including whether a person has to see first hand or is it sufficient to know information about the occurrence of the crime so that a person can be categorized as committing an act of omission of a narcotic crime related to Article 131 Law no. 35 of 2009 concerning this Narcotics.

In this case, those who have the obligation to report if they know of the use of Narcotics that are not in accordance with the procedures or regarding illegal possession of Narcotics as regulated in Article 107. Narcotics Precursor” In Criminal Liability, people deliberately do not report Narcotics crimes, That in Article 99 and Article 100 of Law No. 35 of 2009, That the Authorized Officials, namely BNN and Polri, are required to hide the Identity of Reporters who report

Narcotics Crime Events, and the State is obliged to provide Legal protection for the reporter and the reporter's family, with the existence of an umbrella for legal protection for the reporter's identity, the public does not need to worry about the confidentiality of the reporter's identity and security for themselves and their families.

The obligation of public participation in reporting narcotics abuse has several interpretations of the provisions of Article 131 of the Narcotics Law, this article creates multiple interpretations in determining who the perpetrators are who can be said to be omissions of narcotics crimes, because the information obtained must see the event directly or can only hear information from other parties which is then reported. This makes Article 131 of the Narcotics Law unclear in ensnaring perpetrators and does not have legal certainty for the function of social control by the community over the prevention of narcotics crimes.

B. Formulation Of The Problem

1. What is the legal protection for people who are active in reporting narcotics crimes?
2. Can someone who only hears information and doesn't see it directly can be said to be an omission of a narcotics crime?

C. Funding & Discussion

1. Legal Protection Of Communities Reporting Narcotic Criminal Actions

Regarding the concept of a report contained in Article 1 number 24 of the Criminal Procedure Code (UU No. 8 of 1981 concerning criminal procedure law) and Article 1 number 14 of the Regulation of the Head of the National Police of the Republic of Indonesia Number 14 of 2012 concerning Management of Criminal Investigations (Perkapolri No. 14/2012) reads, "Reports are notifications submitted by a person due to rights/obligations based on law to authorized officials about a criminal incident that has occurred or is being or is suspected to be happening."

In contrast to complaints, report notifications are general in nature,

covering all types of criminal acts that are notified, so reports can be made done by everyone who experiences, sees and hears something criminal incident, and cannot be revoked by the complainant. Even if in the end there is peace between the complainant and the reported before the trial stage, law enforcers can still continue their investigations until trial.

In the Narcotics Law there is Article 128 which reads, "Parents or guardians of addicts who are not old enough, as referred to in Article 55 paragraph (1) who deliberately do not report, shall be punished with a minimum sentence of 6 (six) months or a maximum fine of Rp. 1,000,000.00 (one million rupiah)."

Legal protection for witnesses and victims is not explained in detail in the Criminal Code (KUHP) but in arrangements outside the Criminal Code, namely Law Number 31 of 2014 concerning amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims (hereinafter abbreviated Law No. 31/2014 concerning Protection of Witnesses and Victims).

Procedures for the protection of a person's testimony or reporting carried out in the handling of narcotics crimes must be physical security facilities and psychological consultation when regulations regarding procedure and procedures for witness protection include infrastructure to support this must also be prepared carefully. Such protection is part of the obligation which is an integral part of human rights (HAM). Legal protection can be divided into two parts, the first is preventive legal protection which provides an opportunity to submit objections or opinions before a government decision gets a definitive form, then repressive protection is based on freedom of action because with repressive legal protection the government is compelled to be careful. in making decisions based on discretion.

In this case, those who have the obligation to report if they know that there is use of Narcotics that are not in accordance with the procedures or regarding illegal possession of Narcotics as regulated in Article 107. Narcotics Precursor" In criminal liability, a person intentionally does not report the crime of narcotics committed by Surya Pranata Silalahi in terms of accountability for his actions,

namely:

- a. Capable of Responsibility Based on the facts in the trial and based on the minutes of examination and stated that the defendant Surya Pranata Silalahi Alias Oji in conveying his testimony in court and when Surya Pranata Silalahi Alias Oji committed a crime as charged by the public prosecutor, the defendant did so in good health and physical as well as spiritual and aware of the impact of his actions. So that for his actions can be held criminally responsible.
- b. Error Based on the facts contained in the chronology of the case and in the verdict above, that the Defendant Surya Pranata Silalahi has had a form of error, namely in the form of deliberate action, namely knowing the actions of his friend committing the Narcotics Crime by not reporting him to the authorities before the arrest was made. Police.
- c. There is no reason for forgiveness in carrying out a criminal act of Narcotics already having negligence and not seeing ignorance that a criminal act of not reporting a Narcotics Crime is an act of Narcotics Crime. In the event that there is no excuse for this, the Defendant has no reasons for forgiveness or reasons for abolishing the crime so that for his actions he can be held criminally responsible as stipulated in Article 131 of Law No. 35 of 2009 concerning Narcotics.

The identity of the reporter is kept strictly confidential which is intended to provide protection for the safety of the reporter so that the reporter does not feel threatened during the process of the criminal case. Community participation is the active role of the community in realizing efforts to eradicate the abuse and illicit traffic of narcotics. The community's obligation is to report about the occurrence of narcotics crimes to law enforcement officials. In addition to this obligation, the community has the right to obtain security guarantees and protection from law enforcement officials. The obligation to provide facilities and infrastructure in the protection of narcotics abuse, especially in adolescents and children, is medical rehabilitation and social rehabilitation so that later the mentality of these children can recover from the narcotics.

So the immunity given to witnesses or victims who report narcotics abuse or distribution cannot be prosecuted both criminally and civilly against the

testimony or report that will be, is being, and has been given. This testimony is a good intention carried out to reveal the truth in a trial, which is quite difficult to prove.

In Article 99 of Law No. 35 of 2009 concerning Narcotics

- (1) In court hearings, witnesses and other people who concerned with the criminal case of Narcotics and Narcotics Precursor which is under examination, is prohibited from mentioning the name and address of the complainant or things that give the possibility of knowing the identity of the complainant.
- (2) Before the trial is opened, the judge reminds witnesses and other people concerned with the criminal case of Narcotics and Narcotics Precursor not to commit acts that are prohibited as referred to in paragraph (1).

Article 100 of Law No. 35 of 2009 concerning Narcotics

- (1) Witnesses, reporters, investigators, public prosecutors, and judges who examine cases of criminal acts of Narcotics and Narcotics Precursor and their families must be protected by the state from threats that endanger themselves, their lives, and/or their assets, either before, during or after the process. case examination.
- (2) Further provisions regarding procedures for protection by the state as referred to in paragraph (1) shall be regulated in a Government Regulation

That with the existence of an umbrella of legal protection for the identity of the Whistleblower, the public does not need to worry about the confidentiality of the reporter's identity and security for themselves and their families.

2. Perpetrators Of Omission Of The Crime Of Narcotics From Construction Article 131 Of Law Number 35 Of 2009 Concerning Narcotics.

Who is the perpetrator So what can be said to allow an incident of narcotics abuse is every person in that environment who is not related to using or distributing but he knows or is in the room based on the perpetrator's behavior when examined which can describe malicious intent because of his mistake Legal protection against reporting omission of narcotics crime. The description that in determining the perpetrators of omission of narcotics crime is based on the inner attitude of the perpetrator which is the determining factor whether a person deserves to be punished or not. An inner attitude that contains the contents of a

person's heart or mind is judged by intention where the notion of intention is part of a person's inner attitude but the inner attitude or mens rea can be defined more broadly than intention.

The intention contained in the omission of narcotics crimes includes elements of the guilt of the perpetrators who consciously do not report a criminal act because of the impact of the perpetrator's lack of participation to report, the illicit circulation of narcotics will expand and damage our nation's generation, therefore anything related to information that is heard either directly or indirectly can be reported to the authorities because based on the decision of the Constitutional Court number 65/PUU-VIII/2010 Regarding testimony or information that is not seen by oneself the meaning of a witness has been extended for the purposes of investigation, prosecution and trial which are not He always heard it himself, he experienced it himself and he saw it himself. as the basis for carrying out an investigative process that will trace whether or not a criminal event took place, then seek it.

Most criminal acts in Indonesia have an element of intent or *opzettelijk*, not an element of *culpa*. This relates to the fact that the person who deserves more punishment is the person who did this or committed a crime with an element of intent. Regarding the element of intentional wrongdoing, there is no need to prove that the perpetrator knew that his actions were threatened by law, so there is no need to prove that the act committed by the perpetrator was an "evil" act. It is enough to prove that the perpetrator intended his actions and knew the consequences of his actions. This is in line with the fictional adage, which states that everyone is assumed to know the contents of the law, so it is assumed that someone knows about the law, because one cannot avoid the rule of law by reason of not knowing the law or not knowing that it is prohibited.

Article 131 of the Narcotics Law, where the article is a tool of social engineering in order to increase social control over the use of narcotics, besides that the Indonesian people are also expected to be able to actively carry out activities to eradicate narcotics in accordance with what is capable of being carried out. An interesting point is the existence of the norm embedded in Article

131 of the Narcotics Law which states "Any person who intentionally does not report a criminal act as referred to in Article 111, Article 112, Article 113, Article 114, Article 115, Article 116, Article 117, Article 118, Article 119, Article 120, Article 121, Article 122, Article 123, Article 124, Article 125, Article 126, Article 127 paragraph (1), Article 128 paragraph (1), and Article 129 shall be punished with imprisonment for a maximum 1 (one) year or a maximum fine of Rp. 50,000,000.00 (fifty million rupiah). Article 134 paragraph (1), Criminal acts for Narcotics addicts who do not report themselves shall be punished with a maximum imprisonment of 6 (six) months or a maximum fine of Rp. 2,000,000.00 (two million rupiah).

Article 134 paragraph (2), shall be punished with imprisonment for a maximum of 3 (three) months or a fine of up to Rp. 1,000,000.00 (one million rupiah). Further details regarding regulations related to the obligation to report narcotic crimes are in the provisions Government Regulation Number 25 of 2011 concerning Mandatory Reporting of Narcotics Addicts

The obligation to report criminal acts is not only to the parties concerned as in PP number 25 of 2011 but is borne by everyone. However, such a conception creates loopholes for law enforcement officials to take part in dragging people close to the perpetrators of criminal acts, both family and friends, through this provision. There is an obligation for parents to report their children as drug addicts. This obligation is increasingly proven by the existence of criminal threats if they do not report their children as drug addicts.

However, such a conception creates loopholes for law enforcement officials to take part in dragging people close to the perpetrators of criminal acts, both family and friends, through this provision. There is an obligation for parents to report their children as drug addicts. This obligation is increasingly proven by the existence of criminal threats if they do not report their children as drug addicts. This obligation is given to parents. The purpose of this writing is to obtain legal protection for any category of perpetrators who allow the abuse of narcotics.

E. Conclusions And Recommendations

The identity of the reporter is kept strictly confidential which is intended to

provide protection for the safety of the reporter so that the reporter does not feel threatened during the process of the criminal case. Community participation is the active role of the community in realizing efforts to eradicate the abuse and illicit traffic of narcotics. The community's obligation is to report about the occurrence of narcotics crimes to law enforcement officials which have been regulated in Article 99 and Article 100 of Law No. 35 of 2009 concerning Narcotics.

Article 131 of Law Number 35 of 2009 explains the punishment for anyone who omits narcotics crimes, but does not explain the reporting systematics of the information obtained so that the formulation of the article can lead to multiple interpretations which do not reflect the objectives of the law, namely certainty, benefit and justice. the existence of protection for witnesses from reporting criminal acts is not regulated in detail in the Criminal Code but has its own rules that exist in Law Number 31 of 2014 concerning changes to the protection of witnesses and victims that need to be socialized so that the community can participate in eradicate narcotics crime and not feel threatened when giving testimony or reporting. Attribution theory of correspondence inference states that the reasons a person commits an act due to internal causes will be punished more severely than those caused by internal factors so that the punishment will lead to the cause of the defendant's behavior which will later be in accordance with Gustav Radburch's theory of justice which uses the main priority of justice as the goal of benefits and legal certainty..

There needs to be clarity as meant in Article 131 of the Narcotics Law regarding this information so that it supports the objectives of the law, and the protection provided both from facilities and infrastructure must also be prepared so that it can guarantee the rights of reporters and witnesses, there is socialization from the government and institutions that authority is also very necessary because not all of our people understand these rules.

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