

INDONESIA INTIATIVE IN COMBATING AND PREVENTING DRUGS ABUSE: FROM “CRIMINALIZATION” TO “DECRIMINALIZATION” POLICY

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Abstract

Narcotic drugs and Psychotropic substances abuse has been a global phenomenon and threat for humanity. In the regional level, especially Southeast Asia, illegal distribution of international syndicate networks is increasing. Together with the Philippines, Thailand, Malaysia and Papua New-Guinea, Indonesia is not solely a transit country anymore but it has become the final destination of illicit drugs trafficking. Indonesia drug abusers increased significantly from 5.9 million (2015) to 6.0 million (2017) who 70% of them were estimated to be young people at the age of 14-20 years old. Within the context of Drug-Free ASEAN 2015, Indonesia is actively socializing “decriminalization” policy to abusers through rehabilitation target between 100-200.000 persons per year despite the trend that most countries are giving heavier punishment for abusers. This article is going to examine Indonesia’s initiatives in combating and preventing drugs abuse which has reached the level of “drugs emergency”. Although there are many advantages in this new approach, the writer argues that the implementation of the rehabilitation approach still faces various challenges such as policy implementation’s priority, mindset changing of the executors, unfully operational system, infrastructure availability, reliable rehabilitation method test, which generate questions on the effectiveness of the decriminalisation policy. In the future, continuous evaluation is needed to make sure that the policy is implemented well and provides impact as expected, which is to decrease the number of drug abusers.

Keywords: *drug abuse, criminalisation, decriminalisation, rehabilitation.*

Abstrak

Penyalahgunaan Narkotika, psikotropika dan zat adiktif lainnya (Napza) sudah menjadi fenomena global dan merupakan ancaman bagi kemanusiaan. Pada tingkat regional, khususnya Asia Tenggara peredaran illegal jaringan sindikat internasional semakin meningkat. Bersama Filipina, Thailand, Malaysia dan Papua New-Guinea, Indonesia tidak lagi menjadi negara transit namun telah menjadi negara tujuan perdagangan narkotika ilegal. Pengguna narkotika meningkat signifikan dari 5,9 juta (2015) tembus 6 juta (2017) dimana 70% nya adalah kaum muda berusia 14-20 tahun. Dalam konteks gerakan ASEAN Bebas Narkoba 2015 dan di tengah kecenderungan berbagai negara memberikan hukuman yang semakin berat bagi pecandu, Indonesia justru mensosialisasikan kebijakan dekriminalisasi dengan target rehabilitasi 100-200.000 orang per tahun. Tulisan ini hendak melihat lebih jauh usaha-usaha Indonesia untuk mengatasi masalah penyalahgunaan narkotika yang telah mencapai tingkat “darurat narkoba”. Penulis berargumen bahwa meskipun terdapat banyak manfaat, pada tingkat pelaksanaan kebijakan dekriminalisasi masih harus menghadapi berbagai tantangan baik dalam aspek prioritas pelaksanaan kebijakan, perubahan mindset pelaksana, sistem yang belum sepenuhnya berjalan, ketersediaan infrastruktur, maupun uji metode rehabilitasi yang andal sehingga efektivitas kebijakan dekriminalisasi masih dipertanyakan. Di masa depan, perlu dilengkapi dengan kajian evaluatif terus menerus untuk memastikan apakah kebijakan dekriminalisasi sudah terimplementasikan dengan baik dan memberikan dampak sesuai yang diharapkan yaitu penurunan jumlah pecandu.

Kata kunci: *penyalahgunaan narkotika, kriminalisasi, dekriminalisasi, rehabilitasi.*

INTRODUCTION

Narcotic, psychotropic and other addictive substances abuses has been a global phenomenon and human threat for local, regional and global citizens. Narcotics, psychotropic and other addictive substances are substances that can influence one's psychological conditions (mind, feeling and behavior) and can trigger physical as well as psychological addictions. According to Act No. 22/1997, narcotics are substances or drugs originated either from plants or not (synthetic or non-synthetic) which can cause losing or changing of awareness, losing of taste, decreasing and disabling pain, as well as causing addictions. Whereas, psychotropics are natural and synthetic non-narcotic substances which is psychoactive through selective influences on nerve system and cause distinct shift on mental and behavior activities. Examples of narcotics and psychotropics are (a) Opium (heroin, morfine), (b) Marijuana, (c) Amphetamine (shabu, ecstasy), (d) Cocaine (<https://www.google.co.id/webhp?sourceid=chrome-instant&ion=1&espv=2&ie=UTF-8#q=pengertian%20narkona%20bnn>).

As part of global citizens, Indonesia also faces escalating threat, especially in regards to yearly increase in prevalence of drug abusers. The increase in drug abuse is supported by easier and faster access due to information technology development, in which communication between users, suppliers and distributors is easily done through the internet. The development of various narcotics, such as morphine, heroin and cocaine, that pushes mass commercialization of narcotics is possible due to chemical revolution, when in the past only natural ingredients such as opium flower (*papaver somniferum*), weed (*cannabis sativa*) and coca plant (*erythroxylum*) are available (Simanungkalit, 2011: 56). Therefore, narcotic distributors are not individuals anymore, however they have formed big scale "gangs" with organization strength and capital which can run transnational trading that seriously becomes dangerous transnational organized crime phenomena.

Those developments turn narcotic threats to humanity to become more complex problems that require integrated efforts from various levels of inter-state cooperation. In other words, human security as both theoretical and practical study receives a very real challenge in efforts to combat global narcotics abuse.

The paper is going to discuss how wide the narcotics abuse in Indonesia, the government respond to the problem, the shifting of policy from “criminalization” to “decriminalization” and the challenges faced to fulfill the goal of “Indonesia Free from Narcotics”.

NARCOTIC THREATS IN INDONESIA

In global map of narcotics trading, Indonesia has shifted from “transit country” to “destination country” of illegal narcotics trading. Geographically, Indonesia is strategically positioned between two continents (Asia and Australia) and two oceans (Pacific Ocean and Indonesian Ocean). As the biggest archipelago with 17.508 islands with longest coastlines and borderlines, Indonesia is an easy prey for biggest opium producers, which are *Golden Triangle* in Laos, Thailand, and Myanmar, *Golden Crescent* in Iran, Afghanistan and Pakistan, as well as Latin America states especially Peru, Bolivia and Colombia (Simanungkalit, 2011: 223). However, the shift in chemical-based narcotics is believed to turn China as the biggest supplier and narcotic business controller in Indonesia (<http://www.antiliberalnews.com/2016/08/16/bnn-akui-china-pemasok-narkotika-terbesar-di-indonesia/>).

Conventional illegal narcotics entry to Indonesia is through airports in various cities. With stricter security measures in airports, both legal and illegal sea port accesses become main alternatives. Figure 1 shows the entry way for shabu from Malaysia (Melaka, Sarawak), Papua New Guinea and Timor Leste to nearest port cities, in which then the shabu is distributed to various cities in Indonesia. Figure 2 shows the entry way of marijuana, especially from Aceh to Jakarta as the main destination through various cities. Figure 3 shows the data of numbers of narcotic addicts in certain provinces, which are West Java (790.000 addicts), East Java (560.000), Central Java (440.000), Jakarta (360.000), North Sumatra (295.000), Banten (Banten 175.000). South Sulawesi (140.000), South Sumatra (100.000), Riau (90.000), and Lampung (90.000). From that data also, approximately 3.8 – 4.1 million Indonesian citizens are narcotic users, or equivalent with 2.18% of 10-59 years old citizens. (<http://news.liputan6.com/read/2389871/infografis-peta-penyelundupan-narkoba-di-indonesia>).

Figure 1: Shabu Entry Point



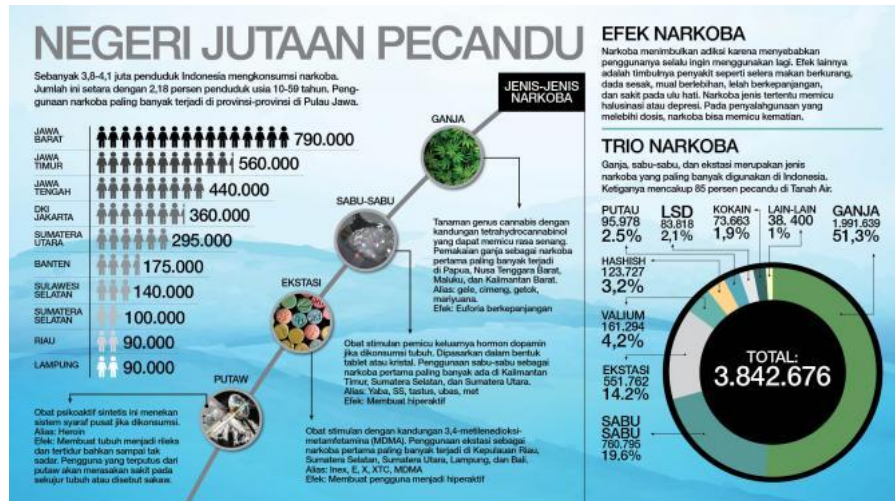
(Source: <http://news.liputan6.com/read/2389871/infografis-peta-penyelundupan-narkoba-di-indonesia>)

Figure 2: Marijuana Entry Point



(Source: <http://news.liputan6.com/read/2389871/infografis-peta-penyelundupan-narkoba-di-indonesia>)

Figure 3: Narcotic Addicts in Indonesia



(Source: <http://news.liputan6.com/read/2389871/infografis-peta-penyelundupan-narkoba-di-indonesia>)

Laporan Akhir Survei Nasional Perkembangan Penyalahgunaan Narkoba di Indonesia Tahun Anggaran 2014 or National Survey Final Report on the Development of Narcotics Abuse in Indonesia, 2014 Fiscal Year by the National Narcotics Agency has projected the number of narcotic abuses in Indonesia between 2014-2020 with three different scenarios, which are increasing, stable and decreasing scenarios. Increasing scenario is the situation of increasing abuses due to pressures from narcotic distributors and producers. Decreasing scenario is the situation of decreasing abuses due to strong efforts from law enforcement agencies and citizens to prevent narcotic abuses, especially through socialization and education efforts. Stable scenario is the condition where there is no change in numbers of narcotic abuses due to balancing powers between narcotic dealers, law enforcement agencies, and citizens. (http://103.3.70.3/portal/uploads/post/2015/03/11/Laporan_BNN_2014_Upload_Humas_FIX.pdf).

Table 1. Projection of Drug Abusers within One Latest Year in Indonesia, 2014-2020 (Thousands of People)

Sex	Scenario	2014	2015	2016	2017	2018	2019	2020
Male	Increasing	3,088.7	3,224.0	3,348.7	3,461.4	3,561.5	3,648.3	3,722.8
	Stable	2,997.5	3,051.5	3,105.5	3,159.0	3,211.9	3,264.4	3,318.0

	Decreasing	2,884.6	2,837.6	2,803.8	2,783.4	2,777.4	2,786.9	2,814.0
Female	Increasing	1,058.4	1,109.6	1,157.1	1,200.5	1,239.1	1,272.9	1,302.1
	Stable	1,025.2	1,046.6	1,068.1	1,089.5	1,110.4	1,131.3	1,152.5
	Decreasing	986.0	972.2	963.0	958.4	958.6	964.2	975.8
Total	Increasing	4,147.1	4,333.5	4,505.9	4,661.9	4,800.6	4,921.2	5,024.9
	Stable	4,022.7	4,098.0	4,173.6	4,248.4	4,322.3	4,395.8	4,470.5
	Decreasing	3,870.5	3,809.8	3,766.8	3,741.8	3,736.0	3,751.1	3,789.9

(Source: [http://103.3.70.3/portal/uploads/post/2015/03/11/Laporan BNN 2014 Upload Humas FIX.pdf](http://103.3.70.3/portal/uploads/post/2015/03/11/Laporan_BNN_2014_Upload_Humas_FIX.pdf), p. 16)

By using increasing scenario, the amount of abuses in 2016 will achieve 4.173.600 million while using the decreasing scenario it will achieved 3.766.800 million abuses.

Table 2. Projection of Prevalence Figure of Drugs Abuses within One Latest Year in Indonesia, 2014-2020 (%)

Scenario	2014	2015	2016	2017	2018	2019	2020
Increasing	2.25	2.33	2.39	2.45	2.49	2.53	2.56
Stable	2.18	2.20	2.21	2.23	2.24	2.26	2.27
Decreasing	2.10	2.04	2.00	1.96	1.94	1.93	1.93

(Source: [http://103.3.70.3/portal/uploads/post/2015/03/11/Laporan BNN 2014 Upload Humas FIX.pdf](http://103.3.70.3/portal/uploads/post/2015/03/11/Laporan_BNN_2014_Upload_Humas_FIX.pdf), 17)

As a completed description, it can be added data of drug abuses in Indonesia based on Performance Report by the National Narcotics Agency 2015 according to the type of abuses (groups of trial use, regular use, non-injection drug abuses and injection drug abuses).

Table 3. Data of Drug Abuses in Indonesia Year 2008, 2011, 2014 and 2015

No	Type of abuses	2008		2011		2014		2015	
		Amount	%	Amount	%	Amount	%	Amount	%
1	Trial use	872.928	26	1.159.649	27	1.624.026	39	1.599.836	39
2	Regular use	894.492	27	1.910.295	45	1.455.232	37	1.511.035	37
3	Non-injection drug abuses	1.358.935	40	1.134.358	27	875.248	23	918.256	22

4	Injection drug abuses	236.172	7	70.031	1	67.722	1	68.902	2
TOTAL		3.362.527		4.274.333		4.022.288		4.098.029	
RESEARCH RESULT			1,99		2,23		2,18		2,20
PROJECTION		Baseline			2,32		2,68		2,8

(Sources: The National Narcotics Agency Year 2015, p. 16.

http://www.bnn.go.id/_multimedia/document/20160311/laporan_kinerja_bnn_2015-20160311155058.pdf)

Related to the scope of abuses, National Survey Final Report on the Development of Narcotics Abuse in Indonesia, 2014 Fiscal Year found that all provinces in Indonesia has been the target of illicit drugs and provinces in Java have the highest abuses compare to provinces out of Java since the larger population compare to the outside Java's. Jakarta has the highest prevalence (4.73%) which is followed by East Kalimantan (3.07%) and Riau Islands (2.94%) (BNN National Survey, 2014: 19).

While from various drugs type circulate in Indonesia it is noted that opium, amphetamine and ecstasy are the most type of drugs using by 85% abuses in Indonesia. As description, according to UNDOC (the United Nations Office of Drugs and Crime) at least there are 44 type of new drugs of *psychoactive substances* (NPA) in Indonesia and 461 NPA in the world. Type of amphetamine is not only found from outside but it also found Methamphetamine produce inside/domestically in the large scale (<http://www.dw.com/en/unodc-indonesia-is-a-major-drug-trafficking-hub/a-18231494>).

The National Narcotics Agency 2014 has been successful in finding basic data of drugs usage on the three groups survey that are high school students/university students, labour group and household group. Three type of drugs (opium, amphetamine and ecstasy) are very popular in those three groups with slightly different of pattern consumption beside opium and amphetamine, that is "*pil koplo*" in the group of students and labours.

Table 4. Estimation of Drug Abuses based on Type of Drugs and Group Survey, 2014

Type of Drugs	Student			Worker			Household		
	Male	Female	Total	Male	Female	Total	Male	Female	Total
Opium	504,952	60,646	565,598	793,441	172,561	966,002	423,985	36,053	460,039
Hashis	34,025	12,862	46,887	40,353	3,691	44,044	31,958	837	32,796
Heroin/Putauw	22,502	7,336	29,838	20,460	12,322	32,782	31,463	1,895	33,358
Ecstasy	74,286	34,418	108,704	221,613	80,830	302,444	122,896	17,718	140,614
Amphetamine	114,301	37,247	151,548	314,792	104,656	419,448	170,318	19,481	189,799
Nipam	28,894	21,436	50,330	87,141	50,009	137,150	-	-	-
<i>Pil Koplo</i>	88,674	29,475	118,149	84,068	13,842	97,910	-	-	-
Rohypnol	26,901	19,650	46,551	40,353	11,996	52,349	-	-	-
Valium	25,190	14,250	39,440	55,485	32,298	87,782	31,869	2,204	34,072
Kanax	41,846	25,902	67,748	58,847	34,143	92,991	-	-	-
Cocaine	18,606	11,384	29,991	23,533	15,875	39,408	4,056	208	4,264
LSD	19,548	10,539	30,087	22,797	22,364	45,161	8,151	8,570	8,570

(Source: [http://103.3.70.3/portal/uploads/post/2015/03/11/Laporan BNN 2014 Upload Humas FIX.pdf](http://103.3.70.3/portal/uploads/post/2015/03/11/Laporan_BNN_2014_Upload_Humas_FIX.pdf), p 20)

GOVERNMENT STANCE WITH RESPECT TO NARCOTIC CRIMINALS

President Joko Widodo's assertive stance regarding the narcotic problems started to appear since 2014, when the public was surprised by the President's rejection regarding 64 pardons for whom sentenced to death. This assertive stance did not appear during President Susilo Bambang Yudhoyono period, when none of death executions were performed (<http://regional.kompas.com/read/2014/12/09/16545091/Jokowi.Tolak.Permohonan.Grasi.64.Terpidana.Mati.Kasus.Narkoba>). President Jokowi stated:

“Those mistakes are difficult to be forgiven because in general they are big drug dealers who tear apart the nation’s future generations for their own personal and group profit.”
“I have received reports that at least 4.5 millions of Indonesian people have become drug users. From that number, 1.2 million cannot be rehabilitated anymore due to severe conditions while 30 to 40 people die every day due to drugs.”
“Rejection to pardon requests are essential as shock therapies for dealers, suppliers, and users.”

President Jokowi was also surprised with the narcotic abuse case that happened in Makassar, where the Dean of Hasanudin University was caught red-handed of using shabu (<http://regional.kompas.com/read/2014/11/14/10193831/Guru.Besar.Universitas.Hasanuddin.Ditangkap.Nyabu.Bareng.Mahasiswa>).

“The incident proves that drug threats are extraordinary, not just among younger people, but even the most established and educated can become victims. Therefore, in my opinion, Indonesia is currently in a drug emergency.”

Without heeding all kinds of controversies that arised in the public due to rejection to pardons which resulted in death penalties (for example, the objection that death penalties violated Human Rights, the accusation of performing pseudo-justice with death penalties (<http://nasional.kompas.com/read/2016/08/02/15572181/pemerintah.dinilai.menjalankan.keadilan.semua.melalui.penerapan.hukuman.mati>) and the critic of the government’s in competencies to solve the root problems), President Joko Widodo was firm with the decision.

During Joko Widodo’s leadership, his government has done executions in three waves. Six were executed in 18 January 2015. For the second wave, eight were executed in 29 April 2015. For the third wave, four were executed in 29 July 2016.

Other than becoming more fearless, President Joko Widodo also hopes for prevention methods which are more comprehensive and integrated. President has asked the National Narcotics Agency (BNN), The Republic of Indonesia Police, National Army of Indonesia (TNI), Law and Human Rights Ministry, Communication and Information Ministry, Health Ministry, Social Ministry and the Directorate General of Customs to move together in preventing narcotic abuses. Three principles which are hoped to be done are strict actions, closure of smuggling loopholes and rehabilitation program to cut the chains of narcotic abuses

<http://nasional.kompas.com/read/2016/02/25/06390301/Jokowi.Tabuh.Genderang.Perang.Terhadap.Narkoba.?page=all>).

THE BASIS OF GOVERNMENT REGULATIONS REGARDING NARCOTIC ABUSES

Regulation basis for government policies to prevent the threat of narcotic abuses has been built from a long time considering the serious narcotic threats especially for national resilience. Various improvement efforts have been implemented, especially from the constitutional basis as to fit with present days' challenges.

During the early days of independence, the Indonesian government used two law instruments from the Dutch, which were Anaesthetic Ordinance a.k.a *Verdoovende Middellen Ordonanti* (Staatsblad 1927 No 278 jo. No.536). The act was meant to unify regulations regarding opiate and other anesthetics spread throughout various ordinances to fulfill narcotic law unification in Indies-Netherland, as well as *Opium Verpakkings Bepalingen* (Staatsblad 1927 No 514), which was regulation related to opiate packaging. These two Dutch law instruments were implemented in accordance with Article II Transition Rules of the 1945 Constitution.

Growing narcotic abuses pushed the Indonesian government under the President Soeharto regime to issue President Instruction (Inpres) No. 6 Year 1971 to National Intelligence Coordination Agency (BAKIN) that in principle instructed BAKIN to tackle six national issues, which were money counterfeiting, smuggling, juvenile delinquency, subversion and foreigners surveillance (Simanungkalit, 2011: 240 and <http://www.bnn.go.id/read/page/8005/sejarah-bnn>).

According to that Inpres, the Head of BAKIN formed Bakolak Inpres Year 1971 which one of its job was to tackle narcotic abuse problems. Bakolak Inpres was a small coordination agency represented by representations from Health Department, Social Department, Foreign Affairs Department, Attorney General, and others, which all were under commando and responsible to the Head of BAKIN. The agency did not have operational authorities and did not receive allocation from national budget, instead the budget was made available based on internal BAKIN policies. However, this Inpres was still considered not able to reach all narcotic abuse problems, especially because there were no exact narcotic definitions, light sentences, the non-existence of specific agency that dealt with narcotic problems and the lack of harmonies related to narcotic laws.

Globally, there were three international conventions related to narcotic controls, which were (i) the Single Convention on Narcotics Drugs of 1961 that was amended with Protocol 1972, (ii) The Convention on Psychotropic Substances of 1971 and (iii) The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (https://www.unodc.org/documents/commissions/CND/Int_Drug_Control_Conventions/Ebook/The_International_Drug_Control_Conventions_E.pdf).

Single Convention 1961 issued strict prohibitive policies regarding narcotic abuses and forced every state member to criminalize suspects of narcotics abuse. The convention also issued the list of narcotics that were included in international surveillance (Schedule 1961) where every state member must regularly report the use of narcotic ingredients to International Narcotics Control Board (INCB). However, Single Convention 1961 had yet to regulate care for narcotic abusers.

On the other hand, the Convention of Psychotropic Substances 1971 started to discuss the importance of rehabilitations and pioneered prohibitions of psychotropic abuses that resulted in list of psychotropics into four groups which are included in the international surveillance (Schedule 1971). In the convention, punishment exceptions started to appear for psychotropic abusers, such as replacing prison punishment to rehabilitation, education, after care and social reintegration.

In 1972, Single Convention Narcotics Drugs 1961 Geneva was amended with Protocol 1972 that emphasized care treatment and rehabilitation for narcotic addicts. Additional point was added regarding care treatment, education, after care and social reintegration as replacements for punishments for narcotic addicts (https://www.unodc.org/documents/commissions/CND/Int_Drug_Control_Conventions/Ebook/The_International_Drug_Control_Conventions_E.pdf).

At the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, emphasis was made on thorough steps in fighting against narcotic circulation done by criminal organizations, including money laundering and precursor material surveillance.

The point is that the creation of regulations related to Narcotics Abuse Prevention in Indonesia is not irrespective of the “spirit” of global anti-narcotics movement and exactly refers to various international conventions.

In 26 July 1976, the Government of Indonesia adopted and implemented Act No. 8 Year 1976 regarding ratification of Single Convention on Narcotics Drugs, 1961 and the Protocol amending the Convention (https://www.unodc.org/pdf/convention_1961_en.pdf). Therefore, the Government admitted global paradigm that narcotics were required for health matters, but they also could be abused and could cause damages for individuals as well as damages for socio-economic lives.

The Government also implemented Act No. 9 Year 1976 regarding narcotics which were poured into The Republic of Indonesia Sheet Year 1976 No. 37, Republic of Indonesia Sheet Addendum No. 3086 (<http://www.dpr.go.id/dokjdi/document/uu/800.pdf>). In summary, the article widely regulated narcotics with more severe punishment compared to previous rules. The article regulated the definition and types of narcotics, narcotics-related activities (planting, compounding, producing, trading, transporting, and usage), conditions regarding compulsory reporting, conditions regarding investigation, prosecution and inspection in front of court, giving of punishment, care and rehabilitation for addicts, as well as conditions for international relations regarding narcotics-related problems countermeasures.

Considering that Indonesia had ratified the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substance, 1988 and Psychotropic Convention, 1971, therefore Indonesia had issued Act No. 7 Year 1997 regarding the ratification former UN convention (https://portal.mahkamahkonstitusi.go.id/eLaw/mg58ufsc89hrsg/uu7_1997.pdf) and Act No. 8 Year 1996 for the latter UN convention (<file:///C:/Users/user/Downloads/Undang-Undang-tahun-1996-08-96.pdf>).

On 1 September 1997, the Government issued Act No. 22 Year 1997 regarding Narcotics which was included on Republic of Indonesia Sheet Year 1977 No. 3698 in which the government specifically wanted to increase control and surveillance to prevent and countermeasure abuses and illicit traffics of narcotics. Narcotic criminal offenses in this period had been done by transnational syndicate with modus operandi and savvy technologies ([File:///C:/Users/user/Downloads/Undang-Undang-tahun-1997-22-97%20\(1\).pdf](File:///C:/Users/user/Downloads/Undang-Undang-tahun-1997-22-97%20(1).pdf)).

Due to consideration that narcotic criminal offenses had become transnational with the growing of organization networks and had caused many victims, then the Act No. 22 Year 1997 was considered not up to par with the current situation. Therefore, the government then issued Act No. 35 Year 2009 (<http://www.bnn.go.id/portal/uploads/perundangan/2009/10/27/uu-nomor-35-tahun-2009-tentang-narkotika-ok.pdf>).

NARCOTIC ABUSES COUNTERMEASURE STRATEGIES: FROM CRIMINALIZATION TO DECRIMINALIZATION

Act No. 35 Year 2009 regarding Narcotic is meant to (a) guarantee the availability of narcotics for health service and science and technology purposes; (b) prevent and protect Indonesian people from narcotic abuses; (c) countermeasure illicit traffic of narcotics and their precursors; (d) guarantee ruling regarding medical and social rehabilitation for narcotic abusers and addicts (Article 4, Pustaka Mahardika, 2011: 6).

In summary, some aspects from Act No. 35 Year 2009 regarding Narcotics receive main attention, which are:

- (a) Prevention: through UNODC 1998's *drugs demand reduction* strategy implementation in forms of international cooperation that focus on production, circulation, and illicit distribution where Indonesia implements life and death sentences for narcotics syndicates (Article 114 Paragraph 2, Simanungkalit 2011: 276). On the other hand, *supply reduction* strategy implementation through intervention to all drugs supply activities by law enforcement agencies (police, general attorney, and judiciary) such as capturing, raid and punishments. Collaborated law enforcing is implemented along with airports and seaports surveillance.
- (b) Prevention: achieved through optimized collaboration between various agencies, which were government (BNN, regional governments, Health Ministry, Internal Affairs Ministry), law enforcements (Republic of Indonesia Police, general attorney, judiciary, correctional institution, and non-government organisations) as well as efforts from the society.
- (c) Medical and Social Rehabilitation: achieved through Article 54, it is stated that narcotic addicts and narcotic abusers must go through medical and social rehabilitation; Article 55 states that parents and guardians must perform compulsory reporting as well as appoint hospitals for medical rehabilitation (Article 56).

Therefore Act No.35/2009 facilitates a paradigm shift from punishment-oriented (criminalisation) through dominant punishment aspects to threat for nation's existence to "humanity-oriented" that takes side on victims in forms of depenalization or decriminalisations in which medical and social rehabilitation are considered. The shift is important because fundamentally during the investigation process, distinctions must be made between distributors that deserve punishments and "victims/addicts" that need to be healed. In other words, addict groups are categorized as *self-victimization* victims that require helps for physical and psychological healing to be able to have a normal life and to create impacts for themselves and society.

Article 103 Act No. 35/2009 states that (1) Judge who investigates narcotic addicts is able to

- (a) Decide to command the addicts to perform treatment and/or rehabilitation if the narcotic addicts are proven guilty to commit narcotic offences; or
- (b) Set to command the addicts to perform treatment and/or rehabilitation if the narcotic addicts are not proven guilty to commit narcotic offences.
- (c) The period of treatment and/or care for narcotic addicts as mentioned on part (1a) is considered as serving the sentence.

To support rehabilitation aspect that cannot be fully perform by government, Act No. 35/2009 also gives roles for society to act upon. Article 104 states that the society has the opportunities to act and to help preventing and tackling abuses and illicit traffic of narcotics and their precursors, as well as Article 105 regarding rights and responsibilities of society in efforts of preventing and combating abuses and illicit traffic of narcotics, their precursors, and various practical forms (information-sharing to law enforcement agencies, giving feedbacks and opinions, having law protection) on Article 106 (Pustaka Mahardika, 2011: 44).

Are those two strategies able to answer narcotic abuse issues in Indonesia? To see the direction of policy operations, we must see narcotic abuse policy direction by the National Narcotics Agency (BNN).

THE ROLE OF NATIONAL NARCOTICS AGENCY (BNN)

Act No. 35/2009 Chapter XI regarding Prevention and Countermeasure in Article 64 states that the forming of National Narcotics Agency (BNN) as a non-ministry government organization that reports to and is responsible to President. BNN is in the nation's capital with work scope of the entire Republic of Indonesia and province and district/city representatives.

Other roles and authorities including coordination with related agencies, increasing the ability of social and medical rehabilitation performed by society, improving laboratories, conducting regional and international bilateral and multilateral agreement; also authorized to conduct investigations, capturing, and tapping as well as creating task execution reports.

BNN is also responsible to produce annual Performance Report that reports target and performance in one fiscal year. In 2015, for instance, BNN set seven strategic targets with 23 main performance indicators which are (i) holding the increment of narcotic abuse prevalence every year by 0.05%, (ii) Prevention Area that included five main performance indicators, (iii) Empowerment Area with five main performance indicators, (iv) Rehabilitation Area with three main performance indicators, (v) Countermeasure Area with four main indicators, (vi) Law and Collaboration Area with three main performance indicators, (vii) BNN Secretariat with two main performance indicators. BNN's 2015 budget ceiling included Management Support and Technical Program of Rp 1.426.620.860.000 with budget realization of Rp. 1.150.766.439.175 (80.66%) (http://www.bnn.go.id/multimedia/document/20160311/laporan_kinerja_bnn_2015-20160311155058.pdf).

CHALLENGES IN IMPLEMENTING NARCOTIC PREVENTION AND ABUSE POLICIES

Considering the wide scope of narcotic abuse that must be faced by BNN and other related government and non-government agencies, there are some challenges that must be understood in order to achieve success regarding the narcotic prevention policies in Indonesia. First is regarding Policies Implementation Priority and gap in implementing decriminalisation policies that include mindset, not-fully working system, gap between infrastructure and rehabilitation service target, as well as more proven rehabilitation methods.

POLICIES IMPLEMENTATION PRIORITY

Currently Indonesia is faced with the “Indonesia free of Narcotics 2015 Program” in the context of “Drug Free ASEAN 2015.” In condition of “narcotic emergencies” or “narcotic disasters”, “as the biggest South East Asia narcotics market”, where the projection of abusers from year to year with the most conservative numbers still showing increase (data shows 2008: 3.362.527 people and 2015: 4.098.029 people are 48% of users in South East Asia); therefore the tagline of “Free from Narcotics” demands a proven accountable steps.

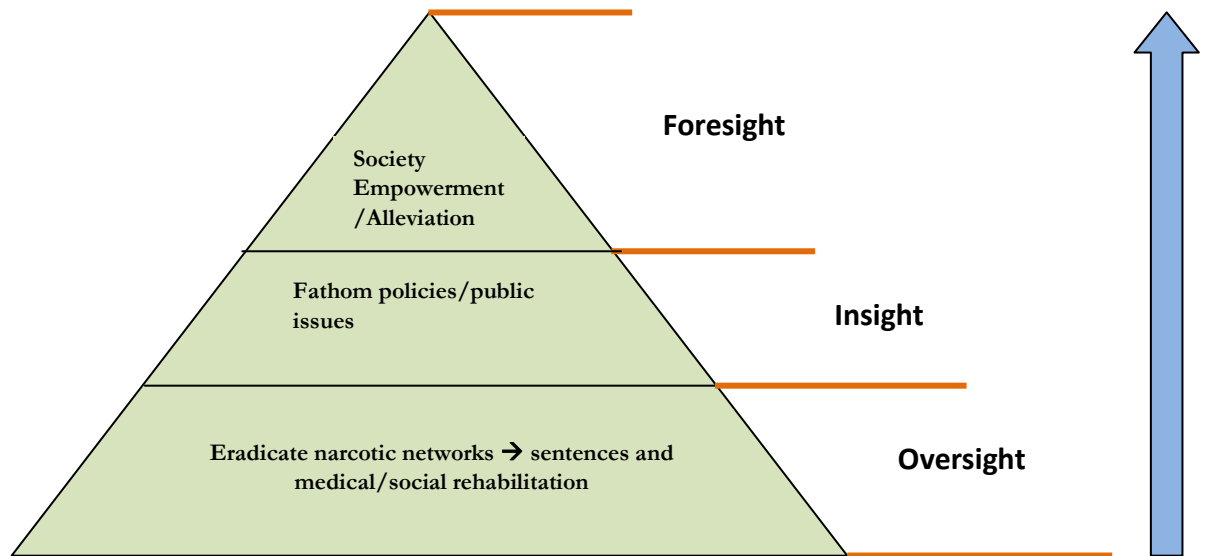
Development of narcotic abuse and illicit traffic shows vast grow and widespread from cities to rural areas, which cause thousands and even millions of victims. Narcotics and psychotropic can be found on various locations other than entertainment venues or café, such campus, school, rental houses, even household where vulnerable groups (high school to elementary school students) are easily targeted. Narcotics also involve various suspects with various roles as part of *transnational organized crime* chains that include distributors, producers, couriers, and users with spreading level reaching 219,44 tonnes of shabu, 13,2 millions ecstasy pills, and 140,75 tonnes of marijuana (<http://nasional.kompas.com/read/2016/02/03/12332921/Surga.Narkoba.Memiskinkan.Bandar.da.n.Konsistensi.Hukuman.Mati>). On the other hand, the amount of failed narcotic distributions done by law enforcers is not event 2% from the overall. If that number reflects the reality, then the policies priority should be “eradication” and “termination” of the entire narcotic distribution chains.

The direction of policies can be accounted from efficiency and effectivity point of views since abuse unit condition is on consumption level (basic level), therefore actions which are suitable with maturity of organization social environment are required.

Referring to Maturity Model of Supreme Audit Institution (Intosai, 2007) and considering the condition of Indonesia that is on “narcotic disaster/emergency” level, therefore eradicating model should follow the level of social environment maturity regarding to narcotics, which is from the basic level of *oversight* (combating drugs abuse including medical and social rehabilitation); *insight* (laws and collaboration, to fathom policies and public issues) and *foresight* (alleviation, society empowerment). If this model is used as a tool, therefore in short Indonesia is still at the *oversight* level where narcotic criminal offenses are widespread and still must fight for

“eradication” of suspects with various methods. If the narcotic emergency level has been taken care of, then policies implementation can escalate to *insight* and *foresight* levels, respectively.

Figure 1. Organization Maturity Model in Narcotic Eradication



(Source: Modification of Maturity Model of Supreme Audit Institutionn Intosai 2007 in J Widodo H. Mumpuni. 2016. *Arah dan Strategi Pemeriksaan BPK Dalam Meningkatkan Transparansi dan Akuntabilitas Keuangan Negara*. Paper. *Building Capacity in Supreme Audit Institutions: A Guide* http://www.carosai.org/wp-content/uploads/2013/01/download_item_1341174748.pdf. page 13 by Members of the Capacity Building sub-committee 1 chaired by the UK National Audit Office. Edition 1 Published in November 2007).

GAPS IN IMPLEMENTING DECRIMINALIZATION POLICIES

Paradigm change in legislation of Narcotics, especially Act No. 35/2009, requires a change in “mindset” for implementers, such as investigators, polices, prosecutors and judges. Decriminalization paradigm requires “assessment” process that involves various parties. Handling regarding to addicts are based from standard operation procedure (SOP) written in the Joint Regulation between Supreme Court, Human Rights and Law Ministry, Health Ministry, Social Ministry, Attorney General, Head of Police of Republic of Indonesia and Head of National Narcotics Agency of Republic of Indonesia No: 01/PB/MA/III/2014, No: 03 Year 2014, No: 11 Year 2014, No: 3 Year 2014, No: PER-005/A/JA/03/2014, No: 1 Year 2014, No: PERBER/01/III/2014/BNN regarding Handling of Narcotic Addicts and Narcotic Abuse Victims to Rehabilitation Agencies. Current SOP is assessment done by medical team to determine the level of severity (narcotic addiction and other related diseases) and plan of rehabilitation therapy

for client. After assessment is done, then abusers or addicts undergo on-road medical rehabilitation with symptomatic basis, that is curing based on current complaints (i.e. if client comes with headache issue then headache reliever medication is issued), and continued by counseling. The goal from counseling is to strengthen client to completely detach from narcotics addiction and to prevent relapsing (<http://www.bnn.go.id/read/artikel/16849/rehabilitasi-rawat-jalan-sebagai-upaya-memulihkan-pecandu-narkotika-di-daerah>).

Not seldom in a lot of cases, people who are caught are prisoned first without any assessment. Investigators and public prosecutors in checking suspects of narcotic abusers do not fully reference the law conditions in Narcotics Act. Investigators and public prosecutors seldom request assessment or expert's opinion regarding physical and psychological addiction condition of caught drug abusers with indication as narcotic addicts (the one who brings, possesses, controls narcotic substances in certain amount for one-day use). In such cases, often investigators and public prosecutors are said to perform "law defiance" (<http://journal.uinjkt.ac.id/index.php/salam/article/view/2380/1804>).

Work scope of National Narcotics Agency as the main non-Ministry agency that reports directly to President is very large. Although according to President's Instruction No. 12 Year 2011 regarding Policy Implementation and National Strategies of Illegal Drug Circulation Prevention and Eradication Year 2011-2015 – is supported by various Ministry and non-Ministry agencies -- however in its implementation the already-built system is not fully "working" due to needs of infrastructure, coordination, funding and resources.

Other gap is related to infrastructure and rehabilitation service target for 100.000 addicts. This massive target surely requires specific "reaching out" methods in every Province/District/City and enough funding, considering its massive needs on every step. Another factor is "stigma" that addicts are criminals, difficult people, useless due to punishment/criminality approaches within the last 50 years, as well as family feeling shame if one of its member is involved with drugs. Other than the fact that rehabilitation is still considered as "imprisonment", something that is traumatic for addicts and their families. Negative stigma to addicts also push the society to not bring addicts to rehabilitation agencies.

Regarding the rehabilitation method, researches and try-outs are still required to determine for total rehabilitation program. Development of rehabilitation method is also not an

easy thing to do. In Indonesia, various spiritual and non-spiritual recovery practices are known (i.e. Abah Anom, 12 Steps Method, and Therapeutic Community). Unreliable rehabilitation method will disappoint the society because most of addicts will return to the old habits. In other words, medical or social rehabilitation method can be considered as a failure and do not receive society supports, and in return “returning” addicts will strengthen the already existing “stigma”.

CONCLUSION

Decriminalization as embodiment and renewal for legislations and regulations related to drugs for the purpose of addressing massive drug abuse problems in Indonesia that aligns with international anti-drugs movement (UNODC-United Nations Office on Drugs and Crime) are assumed to bring huge benefits. The examples of these benefits are decreasing pure law prosecution and tendency of prison over capacity, disconnecting drug trade chains, giving rehabilitations for addicts, preventing economic and social losses and pushing for society self-sufficiency for self-rehabilitation.

However, the implementation of medical and social rehabilitation requires operations which require leadership, management, coordination between various agencies, preparation of human resources, and integration from upstream to downstream. Understanding the level of social maturity regarding narcotics will push prevention policies which are on point and suitable for the society. For that, knowledge management is required on various units so “best practices” (eradication success, therapies success) can be accumulated and managed for application and replication that can push advancement to the next environment/organization maturity, which is *Insight* and *Foresight* in prevention and eradication of narcotic abuse and illegal circulation.

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