

THE URGENCY OF PARAREM IN EFFORTS TO PREVENT AND OVERCOME NARCOTIC ABUSE IN BALI

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Abstract

Narcotics crime is a serious crime that is the focus of all countries in the world, including Indonesia. Until now, narcotics abuse has reached a point of concern where the number of narcotics abusers is increasing with increasingly sophisticated modes of distribution. Such conditions have forced the Government of Indonesia to pursue an effective strategy involving the role of traditional villages in preventing and overcoming narcotics abuse, one of which is through the inclusion of a prohibition on narcotics abuse in customary law instruments. The prohibition of drug abuse along with the threat of sanctions against abusers in traditional villages in Bali is regulated in the Anti-Narcotics Pararem. The existence of the Pararem Anti-Narcotics apart from having a beneficial impact actually invites theoretical problems both in terms of urgency and relevance as well as the strength of its application as an instrument of customary law in the prevention and control of narcotics abuse. The research results show that the urgency of Pararem as one of the customary law instruments in Bali is felt to be very important considering pLaw enforcement should also use a local wisdom approach in order to obtain substantial justice, so that the application of Pararem does not actually rule out the existence of national law but is a manifestation of the need for regulation of narcotics abuse.

Keywords: Urgency, Pararem, Prevention, Countermeasures, Narcotics Abuse

I. BACKGROUND

The crime of drug abuse is included in the category of organized transnational crime and has even been regulated more fully in three narcotics-related conventions, prior to the UNTOC (United Nations Convention of Transnational Organized Crime) agreement. The illicit circulation of narcotics as an organized transnational crime is seen as one of the serious threats to global security, because it is a threat to the state and society which can erode human security and the basic obligation of the state to maintain security and order, due to the current abuse of narcotics. it is no longer done individually, but involves many people together, in the form of an organized syndicate with an extensive network that works neatly and in great secrecy.

Legal provisions regarding the prohibition of abuse, as well as the illicit traffic of narcotics and narcotics precursors in Indonesia are regulated in the Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics (RI Law No. 35 of 2009). Apart from going through this Law, the pattern of preventing and eradicating narcotics abuse is carried out through other laws and regulations such as the Law of the Republic of Indonesia Number 36 of 2009 concerning Health

(RI Law No. 36 of 2009), Government Regulation of the Republic of Indonesia Number 25 of 2009. 2011 concerning Implementation of Compulsory Reporting of National Narcotics Abuse (PP RI No. 25 of 2011), Presidential Instruction (Inpres) Number 12 of 2011 concerning Implementation of National Policy and Strategy for Prevention of Eradication of Narcotics Abuse and Illicit Trafficking (P4GN) and other regulations.

Although various regulations regarding the prohibition of narcotics abuse have been established, the dynamics of narcotics crimes in Indonesia seem to be growing because there is not a single area in Indonesia that is clean or free from narcotics trafficking. The dynamics of narcotics crime in Indonesia can be seen in terms of quantity, modus operandi, perpetrators, victims, and the level of distribution. Currently, the spread of narcotics has occurred massively in society with increasingly sophisticated modus operandi. The perpetrators of narcotics crimes also consist of various groups, both children, teenagers, parents, law enforcement officials, public figures to government officials. Victims of drug abuse regardless of age. The level of distribution of narcotics is still relatively high in Indonesia.

The number of narcotics users in Indonesia has continued to rise in the last two years based on data compiled by the National Narcotics Agency (BNN) from 2017 to 2019. The number of drug abuse in Indonesia in 2017 was 3.3 million people with an age range of 10 to 59 years. In 2019 it rose to 3.6 million. The group of people most prone to exposure to drug abuse are those in the age range of 15 to 35 years or the millennial generation. As many as 275 million or 5.6 percent of the world's population aged 15 to 65 years have used drugs. Even students in Indonesia have been exposed to drugs where around 2.29 million students have used drugs in 2018.

The increasing number of narcotics abuse in Indonesia has made the Government develop a strategy not only based on national law (penalty against perpetrators), but by optimizing prevention through increasing the role of the Regional Government. Therefore, the birth of the Minister of Home Affairs Regulation Number 21 of 2013 concerning Facilitation of the Prevention of Narcotics Abuse (Permendagri No. 21 of 2013) mandates the Regional Government to carry out the tasks of facilitating the prevention of narcotics abuse in the form of Regional Regulation (Perda). Follow up on Permendagri No. 21 of 2013 in the form of a regional regulation in Bali has been stipulated in the Regional Regulation of the Province of Bali Number 7 of 2017 concerning Facilitation of Prevention of Narcotics Abuse (Bali Provincial Regulation No. 7 of 2017).

Article 5 paragraph (2) letter f Bali Province Regional Regulation No. 7 of 2017 states that primary prevention of narcotics abuse can be carried out, one of which is through increasing the active role of the community and traditional villages to participate in preventing narcotics abuse. This means that traditional villages in Bali are currently included as one of the social institutions that are empowered in efforts to prevent drug abuse. For this reason, clarity regarding the thoughts underlying the need for facilitating arrangements for the prevention of narcotics abuse in the Bali Province Regional Regulation No. 7 of 2017 gets its foundation on the principles of forming good laws and regulations, precisely on the principle of the need for regulation.

The existence of Bali Provincial Regulation No. 7 of 2017 in substance involves traditional villages and an appeal to be regulated in Awig-awig or Pararem which is a regulation of customary law in Bali which will philosophically have an impact on the application of customary law principles. Some Awig-awig traditional villages or Pararem in Bali have even regulated customary sanctions against perpetrators of narcotics abuse, because customary sanctions are considered to have a very important role in restoring the turbulent balance. Customary sanctions are an attempt to restore spiritual balance. In other words, customary sanctions are an attempt to neutralize violations that occur as a result of violations of adat and serves as a counterweight to restore balance between the external and mundane worlds. The form of customary sanctions is related to the values and sense of justice of the people who are interrelated.

Another theoretical problem will also arise in the nature of the crime of narcotics abuse, which is a transnational crime, a crime that requires extraordinary methods and is different from the nature of the prohibitions contained in customary law, such as Awig-awig and Pararem in Bali. . Whereas in the development of this matter, a conceptual problem will arise, namely the transition from the nature of crimes as transnational crimes and extra ordinary crimes into the nature of customary offenses. In fact, many penal law regulations formed by the state have been incorporated into various customary law arrangements which differ sociologically in the concept of formulation and remedy.

II. FORMULATION OF THE PROBLEM

Based on the background above, then the formulation of the problem that can be stated is as follows:

1. What is the urgency of Pararem in preventing and overcoming narcotics abuse in Bali?
2. How is the strength of Pararem's implementation as an instrument of customary law in preventing and overcoming narcotics abuse in Bali?

III. RESEARCH METHODS

This type of research is empirical juridical research, using a legal sociology approach and a legal anthropological approach. The legal sociology approach is an approach that analyzes how the reactions and interactions that occur when the system of norms works in society, while the legal anthropological approach is an approach that examines ways of resolving disputes, both in modern and traditional societies. The specification of the research used is analytical descriptive, namely to describe the results of the research with data that is as complete and as detailed as possible. This study used primary data derived from field data where this data was obtained from informants from the Bali Province National Narcotics Agency (BNNP), the Bali Province Traditional Village Assembly (MDA), and Prajuru Traditional Villages in Bali. While the secondary data in this research is data that comes from library research, in the sense that the data is not obtained directly from the first source, but comes from data that has been documented in the form of legal materials, both primary legal materials, secondary legal

materials, and tertiary legal materials. Primary legal material consists of several laws and regulations related to this research, namely Law of the Republic of Indonesia No. 35 of 2009 concerning Narcotics, Bali Province Regional Regulation No. 7 of 2017 concerning Facilitation of Prevention of Narcotics Abuse, and Bali Province Regional Regulation No. 4 of 2019 concerning Traditional Villages in Bali, then the secondary legal materials used in this research consist of legal and non-legal literature or books related to this research, legal journals both national and international journals, research results, articles or legal papers published on the internet media. In this study, tertiary legal materials such as legal dictionaries were also used. Regarding the data collection techniques used in this study include observation techniques, interview techniques, and document study techniques. 7 of 2017 concerning Facilitation of Prevention of Narcotics Abuse, and Bali Province Regional Regulation No. 4 of 2019 concerning Traditional Villages in Bali, then the secondary legal materials used in this research consist of legal and non-legal literature or books related to this research, legal journals both national and international journals, research results, articles or legal papers published on the internet media. In this study, tertiary legal materials such as legal dictionaries were also used. Regarding the data collection techniques used in this study include observation techniques, interview techniques, and document study techniques. 7 of 2017 concerning Facilitation of Prevention of Narcotics Abuse, and Bali Province Regional Regulation No. 4 of 2019 concerning Traditional Villages in Bali, then the secondary legal materials used in this research consist of legal and non-legal literature or books related to this research, legal journals both national and international journals, research results, articles or legal papers published on the internet media. In this study, tertiary legal materials such as legal dictionaries were also used. Regarding the data collection techniques used in this study include observation techniques, interview techniques, and document study techniques. then the secondary legal material used in this research consists of legal and non-legal literature or books related to this research, legal journals both national and international journals, research results, articles or legal papers published in the media Internet. In this study, tertiary legal materials such as legal dictionaries were also used. Regarding the data collection techniques used in this study include observation techniques, interview techniques, and document study techniques. then the secondary legal material used in this research consists of legal and non-legal literature or books related to this research, legal journals both national and international journals, research results, articles or legal papers published in the media Internet. In this study, tertiary legal materials such as legal dictionaries were also used. Regarding the data collection techniques used in this study include observation techniques, interview techniques, and document study techniques.

IV. RESULTS AND DISCUSSION

4.1 The Urgency of Pararem in Efforts to Prevent and Overcome Narcotics Abuse in Bali

Law has a straightforward and objective nature. That means that it is clearly identifiable and independent of subjective free will. We can also say that modern positive law is rational. The law for the most part is determined by the power or authority of the authorities. This is almost always in the form of overhairs-organs of a concrete legal order and state order. Law is related to observable human actions and behavior, Julius Stone views law as a social reality.

In essence, the "criminal sanction" is the "prime guarantor" or "prime guarantor" and at the same time as the "prime threat" or the best tool or means in dealing with crime. However, in reality crimes are growing in quantity, quality and modus operandi even though there is already a criminal law that regulates in such a way that the threat of sanctions for the perpetrators of crimes is present. In fact, crime grows and develops following the dynamics of society and development in line with what was stated by HR Abdussalam and DPM Sitompul.

The threat of narcotics abuse has become a global phenomenon and is a human threat to citizens at the local, national, regional and global levels. Indonesia is no exception, also facing serious threats, especially in terms of the prevalence of users, which has increased from year to year. Vivi Apriyanti in her research results stated that "although law enforcement officers have been working maximally and even the government has specifically established an agency that deals with narcotics abuse, the National Narcotics Agency (BNN), the problem of drug abuse is not decreasing, but it is increasingly complex." The spread of narcotics has occurred massively in society with increasingly sophisticated modus operandi. The rapid increase and expansion of narcotics abuse in Indonesia is triggered by developments in information technology, where communication between users, dealers and suppliers can easily take place via the internet, so that the prevention and control of narcotics crimes requires cooperation from various parties as steps taken by the Government. Indonesia by involving the role of traditional villages.

G. P Hoefnagels in Barda Nawawi Arief argues that crime prevention efforts can be pursued by applying criminal law (criminal law application), prevention without punishment, and by influencing public views on crime and punishment through mass media (influencing views of society on crime and punishment/mass media). The involvement of traditional villages in preventing and overcoming narcotics abuse in Bali cannot be separated from the idea that there is a need for harmonization between national law and customary law in combating the spread of narcotics, bearing in mind that the sanctions in customary law have so far been more feared than the sanctions in national law.

Every community in any region has its own local wisdom in answering various problems faced by them. This includes resolving conflict cases that occur between individual members of the community in daily activities such as irrigation in rice fields, theft, land boundaries and others. Likewise with cases of narcotics crimes that have ensnared many young people in the village, so of course the local community also has its own local wisdom to resolve these cases through customary law instruments.

Literally Awig-awig are rules made by customary villages and/or customary banjars that apply to krama desa adat, krama tamiu, and tamiu, furthermore Pararem, namely customary village rules/decisions as the implementation of awig-awig or regulating new matters and/or resolve customary/speech cases in customary villages. Until now, 137 out of 1,493 traditional villages in Bali have Anti-Narcotics Pararem with details namely Gianyar Regency (23 traditional villages), Denpasar City (28 traditional villages), Buleleng Regency (33 traditional villages), Badung Regency (22 traditional villages) , Klungkung Regency (21 traditional villages), Karangasem Regency (10 traditional villages). Rules regarding the problem of narcotics are important in the traditional village environment considering that narcotics have now entered

villages. The traditional village does not only deal with ceremonial matters, but also the pawongan (humans) need attention. This is one attempt to prevent the abuse and distribution of narcotics at the customary village level. The Anti-Narcotics Pararem made by the traditional village is a derivative of the Awig-awig which binds the customary village which has been agreed upon including customary sanctions.

Regarding the mechanism for imposing traditional sanctions on perpetrators of narcotics abuse, it is not regulated in the Pararem but becomes a regulation in the Awig-awig. The imposition of these customary sanctions is through a customary court process known as customary village papers. Article 1 number 18 of the Bali Provincial Regulation Number 4 of 2019 concerning Traditional Villages in Bali states that Kerta Desa Adat is a partner institution for Prajuru Desa Adat which carries out the function of settling customary/speech cases based on customary law in force in the local Traditional Village. Customary/speech cases are any issues of customary law in matters of parhyangan, pawongan, and Palawan, either on the basis of a request or a dispute. Regarding the implementation of customary sanctions for perpetrators of narcotics abuse, not all traditional villages in Bali apply them. This is because there are still many obstacles, especially in terms of reporting and sanctions. The diversity of types of sanctions and patterns of imposition of sanctions has triggered doubts for traditional villages to form an Anti-Narcotics Pararem.

Seeing the nature of the spread of narcotics, the formation of an Anti-Narcotics Pararem by each traditional village with a clear pattern of punishment is felt to be very important to prevent and overcome narcotics abuse. However, tackling narcotics abuse based on local wisdom still requires a pattern of regulation as a guideline to reinforce the line of authority between national criminal law and customary law. Besides the different nature of the law, the purposes of punishment between the sanctions in the national criminal law and customary law are also different. The pattern of imposing sanctions on perpetrators of narcotics abuse and the technique of reporting narcotics abuse if there are villagers who abuse narcotics is also important to develop so that they do not conflict with the protection of human rights (HAM) in Indonesia.

4.2 The Strength of Pararem Applicability as an Instrument of Traditional Law in the Prevention and Control of Narcotics Abuse in Bali

Indonesia is a country that has many tribes spread throughout the archipelago. Each tribe has its own characteristics as a differentiator between one tribe to another. Each tribe has a law that is felt to be more acceptable to the community as a solution to the legal problems they face (the realm of criminal law) within their sphere of life. State law which aims to establish safety, happiness and order among the people is felt to be less able to provide a sense of justice in terms of solving problems. Due to the above conditions, what is known as a legal gap occurs. The legal gap is the gap between what the legislator (ruler) wants so that the positive law (KUHP) is obeyed and what is believed in law practice as a local community tradition. For local people, the positive norms that have been made by the state are felt to provide less sense of justice compared to the legal institutions that they have inherited from their ancestors.

Traditional villages in Bali are closely tied to a concept known as the Tri Hita Karana concept. The concept of Tri Hita Karana is a local concept as a local genius that should be able to be maintained in the present and in the future. It is this concept of local wisdom or local culture that becomes a strong foundation in later times, when various threats of external influences which are generally known to come from the West have the potential to be unstoppable, their influence is getting stronger and slowly without realizing beforehand whether that influence is can threaten their harmonious life throughout the course of time. In line with this, Eugen Ehrlich argues that the center of activity for legal development lies not in laws, not in jurisprudence, and also not in court decisions. but within society itself. Therefore, for Eugen Ehrlich, state law is not something that is independent of societal factors. State law must pay attention to the living law that has lived and grown in people's lives.

The traditional village as a social institution basically has the main function of dealing with customs and religious (Hindu) affairs. However, along with the development of the paradigm in society, the role of traditional villages is not only to issue a system but also to become a problem solving, especially regarding the problem of narcotics which has an increasingly widespread impact and is very worrying in society. In relation to the prevention of narcotics abuse in Bali through the normalization of customary sanctions in the Awig-awig or Pararem, in essence it does not rule out the existence of national law but is a manifestation of the need for regulation of narcotics abuse which cannot be separated from the principles of customary law which in essence focuses on balance. existing in society itself.

The Balinese are an indigenous people as well as a religious community, so a more appropriate approach is taken to respond to increasingly massive negative changes, one of which is the abuse of narcotics through custom and religion, namely the role of the Balinese Traditional Law instrument, namely Awig-awig or Pararem. This is because the Balinese people really believe in sanctions arising from customary law not only having an impact on a sekala (birth) basis but also having an impact on spiritual (inner) life, so that through the strict enforcement of customary law it can be a solution to overcome the negative changes that are happening in the world. public.BNNP Bali in implementing the P4GN program in the Province of Bali made creative breakthroughs and utilized local wisdom in Bali. BNNP Bali in collaboration with traditional villages in Bali compiled Pararem Anti Narcotics. The stipulation of rules prohibiting narcotics abuse in the form of Pararem or Awig-awig because pararem or awig-awig are Balinese customary rules that are dynamic in accordance with the times and are binding.

Awig-awig or Pararem existing regulations will bind all traditional krama (citizens) in their customary village area. If there are krama involved, then the existing Awig-awig or Pararem is applied, the krama involved will be subject to positive legal sanctions as well as customary sanctions. Broadly speaking, it can be said that Awig-awig or Pararem functions as social control in indigenous peoples. As social control, it functions to maintain the rules/values of existing relationship patterns. This can be done preventively, for example conducting outreach, counseling and so on. Repressively it aims to restore the disturbed balance by imposing negative sanctions on citizens who violate or deviate from the values or applicable rules.

Looking at the types of sanctions against perpetrators of narcotics abuse listed in the Anti-Narcotics Pararem in several Traditional Villages in Bali which are the research samples, that in general there are different levels of imposing customary sanctions on perpetrators, like for those who make mistakes for the first time, they have to do one-on-one courtship. If you do it a second time, you will be given a sanction plus doing a foreign courtship. However, if it is up to three times, the punishment is further exacerbated by sanctions in the form of foreign courtship and a fine in the form of 1 kg of rice multiplied by the number of residents in the traditional village. If more than three times, then the perpetrator will be fully handed over to the authorities to be subject to positive law. The Traditional Village Council (MDA) prohibits customary villages from imposing sanctions of kasepekan (excommunication) on krama (residents) who are proven to have abused narcotics. The reason for the ban on the imposition of the kasepekan sanction is because narcotics abusers can still be rehabilitated. As for narcotics dealers, the sanctions are strictly regulated in the Criminal Code.

V. CLOSING

1. Prevention and control of narcotics abuse requires serious handling from various parties, so that the involvement of traditional villages through customary law instruments, both Awig-awig and Pararem in Bali, is felt to be very important given the law enforcement should be carried out using a local wisdom approach in order to obtain substantial justice. In the sense that law enforcement does not only look at the formal aspects of an act but also has to look at how the law lives in the surrounding community.
2. The implementation of Pararem as one of the traditional law instruments in Bali in preventing and overcoming true narcotics abuse does not rule out the existence of national law but is a manifestation of the need for regulation of narcotics abuse which is inseparable from the principles of customary law which in essence focuses on the balance that exists within society itself, so that harmonization between national law and customary law in the prevention and control of narcotics can be reaffirmed both in terms of the pattern of punishment and the mechanism for imposing sanctions on perpetrators of narcotics abuse.

BIBLIOGRAPHY

Book

1. Abdussalam, HR & DPM Sitompul, Criminal Justice System (Jakarta: Restu Agung, 2007).
2. Barda Nawawi Arief, Law Enforcement Issues and Criminal Law Policies in Crime Control (Jakarta: Kencana Prenada Media Group, 2010).
3. Herbert L. Packer, The Criminal Limits of Criminal Sanctions (California: Stanford University Press, 1968).
4. I Gede Suartika, Anatomy of Indigenous Conflicts in Traditional Villages and How to Solve them (Denpasar: Udayana University Press, 2010).
5. Meuwissen, Meuwissen About Legal Development, Legal Studies, Legal Theory, and Legal Philosophy, translation by Arief Sidharta (Bandung: PT Refika Aditama, 2013).

6. Muhamimin, Legal Research Methods (NTB: Mataram University Press, 2020).
7. Theo Huijbers, Philosophy of Law in the Trajectory of History (Yogyakarta: Kanisius, 2011).
8. Wahyu Prijo Djatmiko, Legal Culture in a Pluralistic Society (Yogyakarta: Thafa Media, 2021)

Scientific articles

1. I Ketut Widia, "Developing Traditional Village Rules in the Context of Preventing Domestic Violence and Narcotic Crime", Journal of Prasada Warmadewa University, Vol. 4, No. 1 Year (March 2017).
2. Ni Made Widiari, I Wayan Rideng, & Luh Putu Suryani, "Application of Traditional Sanctions for Perpetrators of Narcotics Abuse in the Kesiman Traditional Village", Journal of Legal Interpretation, Vol. 2 No. 2 (August 2021).
3. Syofyan Hadi, "Positive Law and The Living Law (its Existence and Applicability in Society)", DIH Journal of Legal Sciences, Vol. 13 No. 26 (August 2017).
4. Vivi Ariyanti, "The Victims of Drugs Abuse and Their Legal Status in the Indonesian Narcotics Law", International Journal of Business, Economics and Law, Vol. 13, Issue 4 (August 2017)

Legislation

1. Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics.
2. Bali Provincial Regulation Number 7 of 2017 concerning Facilitation of Prevention of Narcotics Abuse.
3. Bali Provincial Regulation Number 4 of 2019 concerning Traditional Villages in Bali.

Internet

1. National Narcotics Agency, "Narcotics Use Among Adolescents Increases" (On-line), available at <https://bnn.go.id/guna-narkotika-kalangan-remaja-meningkat/> (12 August 2019).