Eradication Efforts of Drug Abuse in Indonesia

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Abstract :

The danger of drug abuse has now become a serious double threat that is the destruction of the future and life plus prolonged suffering without hope of recovery due to the destruction of the immune system. This study deals with the eradication efforts of drug abuse in Indonesia. The subject of this study is drug abuse in the perspective of Islamic Law based on revelation and in the perspective of Indonesian positive law. The approach used in this study is comparative through juridical normative-telologic. The result shows that the concept of prevention and tackling of drugs in Islamic law in the form of preventive, refresive and educative. Whereas in Indonesian positive law through law No. 35 of 2009 in the form of preventive, refresive, curative and educative efforts and has made compulsory provisions for the rehabilitation of addicts and victims of drug abuse.

Keywords :

eradication; drug abuse; Indonesia

I. Introduction

The problem of drug abuse has very broad and complex dimensions; both from a medical, psychiatric, mental health, as well as psychosocial (economic, political, socio-cultural, criminal, etc.) perspective. Of the many problems that arise as a result of drug abuse are: interfering and can even damage the mind or the human brain, especially those related to the power of analysis, the power of synthesis, the power of analogy, logic, reasoning power, hallucinations of hearing and sight, the anticipatory power and memory power, damaging kinship relations, increasing crime rates, increasing the number of traffic accidents, other acts of violence, reducing the productivity and nationalism of the younger generation, harming the state and even colonizing the country even though its form is not in physical occupation. Drug abuse is an endemic disease in modern society, a chronic disease that recurs, which until now has not been found to be universally satisfying, both from the point of prevention, therapy and rehabilitation.

The verdict of legal decisions against many drug criminals is not comparable to the impact of the disaster caused by the drug criminals. As a result, the majority of drug dealers and dealers after leaving the correctional institution returned to their business and returned to being drug dealers or dealers. That means the punishment imposed on them does not have a deterrent effect. More ironically, prisons are used as places for abuse and illicit drug trafficking and even production sites with the help of guests and wardens. While the majority of drug addicts and drug abusers are still convicted with prison sentences even though in the narcotics law number 35 of 2009 the judges have been advised to order narcotics addicts to undergo medical and social rehabilitation as a substitute for serving a prison sentence. These are all due to the lack of good intentions of all law enforcement officials to impose severe penalties on drug dealers and dealers as well as the intention to rehabilitate addicts and drug abusers in accordance with what the law mandates. If this is done slowly, it will reduce the demand for drugs and consequently the supply numbers will decrease in a balanced manner.

Sanctions in positive law that are felt by the community are not worth the crime of drugs, so that they are not likely to deter drug offenders. It is also possible to encourage other members

of the community to join in to do negative acts against the law. Besides that, the implementation of punishments against abusers and illicit drug dealers does not give a direct impression to the public, so that the prevention of the community from committing the same crime is not felt by the general public.

Theoretically, there are two things in law enforcement. First, how are the legal rules. Second, how enforcement law is carried out properly and correctly. In the case of drugs, there are actually laws and regulations in law. There is law number 5 of 1997 concerning psychotropic and law number 35 of 2009 concerning narcotics. Not to mention the UN convention on narcotics and drugs ratified in 1971 and 1988 by the government of the Republic of Indonesia. So, there should be extreme extortion and illicit drug trafficking, at least it must be reduced. But in reality, the abuse and illicit trafficking of drugs is even more "insane". Not only is the dark circulation increasing, but the victims are increasing.

Based on the above, there is a need for stricter sanctions than Islamic law as a responsive and anticipatory solution to drug abuse and circulation. Because, Islamic law is an integral part of national law directed at renewing national law that cannot be ignored in fostering national law that is rooted and developed in the community, because it needs in-depth study so that Islamic law can have a role in overcoming the problem of drug abuse or on the contrary, Islamic law needs to adopt the positive law that exists today in Indonesia or it requires a combination of the two laws so that the law can be applied properly and have a very significant effect.

Ethically, Muslims must be guided by Islamic values, not to the teachings of positive human law which is solely the result of human thought itself without any connection with the essential dimensions of divinity. Secular legal legality will only result in the emergence of the problem of materialistic dehumanization. However, what has always been a problem in the process of socializing *fiqh* (Islamic law) is not about the existence of the law, but which is often a place of debate among scholars in terms of the relevance and actualization of the law itself, especially when it is related to the situation (local) or age (temporal).

II. Review of Literatures

2.1 Islamic law

In Alqur'an there is no terminology for drugs. Likewise in the traditions of the Prophet there is no term drug because drugs are a new term that appeared around the twentieth century. The term "drugs" only appeared around 1998 because there were many incidents of use or use of goods including narcotics and addictive ingredients or drug additives that were prohibited.

Although Nash does not explicitly mention drugs, but it regulates clearly and explicitly the basic principles that can be used as reference in finding supporting arguments related to drug problems. In the study of *ushul fiqh*, if something has not been determined its legal status, it can be resolved through the *qiyas* method or other methods. On that basis, before the author explained the definition of narcotics the author first described the definition of *khamar*.

In etymology, *khamr* (خمر) comes from the word *khamara* (خمر) which means cover and cover. The final purpose is that *khamr* can cover one's mind and logic for those who drink it or consume it. Whereas in terminology. *Al-Isfihani* explained that *khamr* means a drink that can cover intellect or intoxication, whether the person who drinks it is drunk or not. So the intoxicating drink is called *khamr* because it can cover human reason. This is one of the strong reasons that *Khamr* is forbidden in Islam besides several other reasons.

The bad impact caused is that the common sense is contaminated and obstructed by *khamr* so that it is not uncommon for the drinker to drink normality to be disturbed and cause unconsciousness. The second opinion states; called *khamr*, because it can cover or hinder reason, like *lafaz* " المرأة خمار ".

In terminology as explained by Muhammad Syaltut *Khamar* are:

ان الخمر في لسان الشرع و اللغة اسم لكل ما يخمر العقل ويغويه بخصوص المادة التي يتخذ منها فقد يكون من العنب وقد يكون من غير

Meaning: *khamar* according to *syara'* and Arabic is the term for any that close the mind and eliminate it,, especially substances that are made as ingredients of liquor, both made of wine and those made from other.

Syaltut equates the *khamar* in Alquran with the term used by the Arabs. Thus it can be concluded that everything that can interfere with the functioning of reason, whether he is made of plants or other materials is called *khamar*.

The basic concept of drugs in the viewpoint of Islamic law refers to the provisions of *khamr*. According to 'Abdullah Ibn Ahmad Ibn Mahmud al-Nasafi, there are 4 (four) verses of Alqur'an in several different letters relating to *khamr*. First is the letter al-Nahl verse 67. The second letter al-Baqurah verse 219. The third letter al-Nisa 'verse 43, The four are listed in surat al-Maidah verses 90-91. Whereas according to the attorney 'Abdullah Ibn' Umar al Syabi. Mujahid, Qatadah, Rabbi Ibn Anas, and Abdurruhman Ibn Aslam, as quoted by Muhammad Jamaluddln al-Qasirni; that surat al-Baqarah verse 219 is the first verse relating to *khamr*, then followed by Surat al Nisa 'verse 43, only then after it came down the letter al-Maidah verses 90-91 which became klirnak / pamungkas related with *khamr*.

2.2 Positive Indonesian Law

Narcotics is an abbreviation of Narcotics, Psychotropic and addictive ingredients. The terminology of familiar drugs is used by law enforcement officials such as the police (including the National Narcotics Agency), prosecutors, judges and correctional officers. In addition to drugs, other names that refer to these three substances are drugs, namely narcotics, psychotropic substances and addictive substances. The term drug is usually used more by health and rehabilitation practitioners. But in essence the meaning of the two terms still refers to the same three types of substances.

Etymologically, English-language narcotic which means narcotics, which means the same as narcosis in Greek, which means to put to sleep or make it smooth. Whereas in the dictionary of English-Indonesia drug means sedative ingredients, drugs or sedatives.

Terminologically drugs are drugs that can calm nerves, causing pain, causing sleepiness or stimulation. William Benton as quoted by Mardani explains in his book drugs is a general term for all types of substances that weaken or anesthetize or reduce pain. Soedjono in social pathology formulated narcotics definitions as ingredients which mainly had the effect of anesthetic work or could reduce consciousness. While Smith Kline and French Clinical gave narcotics definitions as substances that can cause unconsciousness or anesthesia because these substances work to affect the arrangement of nerve centers. In the definition of narcotics it includes types of opium such as morphine, cocaine, and heroin or substances made from opium such as (*meripidine* and *methodan*). While Korp Reserce Narcotics says that narcotics are substances that can cause changes in feelings, composition of observations or visions because they affect the nervous system.

Furthermore, in Law No. 35 of 2009 concerning narcotics article 1 paragraph 1 states that narcotics are substances or drugs originating from plants or not plants that are either synthetic or semi-synthetic which can cause a decrease or change in consciousness, reduced sensation, reduce pain relief and can cause dependence that is distinguished in groups.

Indirectly, the misuse and illicit circulation of drugs also have a high and long-term loss in the form of low quality (health, education, intellectuality and productivity) of human resources. Abuse and illicit drug trafficking is linked to widespread social problems, crime, arms smuggling, separatist movements and illicit money laundering resulting from drug crimes, corruption, and disruption of political instability and loss of investor confidence.

In addition, in recent years it turned out that, in turn, drug abuse with needles is related to transmission of HIV / AIDS, deadly diseases that have not been found for drugs or vaccines, hepatitis B and C and infectious diseases through other body fluids. The danger of drug abuse has now become a serious double threat, namely the destruction of the future and life plus prolonged suffering without hope of recovery due to the destruction of the immune system.

Complications and epidemics of the problem of drug abuse and illicit trafficking, as well as the severe impacts and threats to various aspects of life and the future of the nation, the response is nothing but mobilizing all efforts and the potential of society and the nation to prevent and combat it.

Problems and abuse and illicit circulation of drugs are complex problems both the cause and impact, and have plagued all levels of society. Therefore a comprehensive multidisciplinary solution is needed, cross sectoral coordination and integration as well as community participation. As long as the community views the task of combating the dangers of abuse and illicit drug trafficking as a duty of the government alone, so long as it will not succeed.

Meanwhile, social reality in Indonesian society both in rural and urban areas, community leaders are still quite influential and play a role in directing and driving community participation in the fields of health, education, and prevention of drug abuse in particular.

Not all addicts want to recover or stop using. As with other social diseases, such as prostitution, drug abuse is impossible to eradicate. There are some of them who maintain their lives as addicts.

For addicts with syringes, the result is an increase in HIV / AIDS and hepatitis B / C, which is transmitted to sexual partners or other addicts who use syringes together.

The supply reduction program and the reduction in the need for drug use (demand reduction) such as education and prevention, therapy, and rehabilitation, as well as improving the economy and social life, can only be successful in the long-term phase.

However, for groups of active addicts who still want to maintain their lifestyle, the above efforts do not mean much. Reduction of harm is a program to reduce the adverse effects of drug use, especially injection needle users. The short-term goal is to prevent the spread of HIV transmission among drug addicts with needles. If not, efforts to stop using drugs (abstinence) and recovery will be in vain.

III. Research Methods

The subject of this study is drug abuse in the perspective of Islamic Law based on revelation and in the perspective of Indonesian positive law. The approach used in this study is comparative through juridical normative-telologic. The telological side of normativity lies in the Islamic legal norms (*fiqh jinayah*) dictated by revelations from both the Alqur'an and the Prophet's Hadith. Because the approach in this study can be classified into revelation research. While the nomination-juridical side lies in the legal norms that apply in the Republic of Indonesia.

IV. Discussion

Indirectly, the misuse and illicit circulation of drugs also have a high and long-term loss in the form of low quality (health, education, intellectuality and productivity) of human resources. Abuse and illicit drug trafficking is linked to widespread social problems, crime, arms smuggling, separatist movements and illicit money laundering resulting from drug crimes, corruption, and disruption of political instability and loss of investor confidence.

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This method is also called a treatment program. Curative programs are aimed at drug users. The goal is to treat dependence and cure diseases as a result of drug use, while stopping drug use. Not just anyone can treat drug users. Drug use is often followed by the entry of dangerous diseases and mental and moral disorders. The treatment must be done by a doctor who studies drugs specifically.

Treatment of drug users is very complicated and requires extraordinary patience from doctors, families, and sufferers. This is why the treatment of drug users requires large fees but the results are many that fail. The key to successful treatment is good cooperation between doctors, families and sufferers.

Forms of patient or user treatment activities include:

- a. Termination of drug use
- b. Treatment of health problems due to cessation and drug use (detoxification)
- c. Treatment of body organ damage due to drugs
- d. Treatment of other diseases that can enter with drugs (diseases that are not directly caused by drugs), such as HIV / AIDS, hepatitis B / C, syphilis, pneumonia and others.

Repressive programs are legal action programs against producers, dealers, dealers and users. The program is a government agency that is obliged to monitor and control the production and distribution of all substances classified as drugs. In addition to controlling production and distribution, repressive programs in the form of repression were also carried out against users as violators of the Law on Drugs. Agencies responsible for the distribution, production, storage and abuse of drugs are:

- a. Drug and Food Agency (POM).
- b. Department of Health.
- c. Directorate of customs and excise.

- d. Directorate General of Immigration.
- e. Indonesian republic police
- f. Attorney General's Office / High Prosecutor's Office / State Attorney's Office
- g. Supreme Court (High Court / District Court).

Many drugs are made from chemicals that are everyday useful for the benefit of other industries and agriculture. Materials called precursors can be mixed into drugs and circulated in illegal trade. Due to the extent and complexity of the problem, all people, including NGOs and other social institutions, must participate in assisting the relevant officials.

Rehabilitation is an effort to restore mental and physical health aimed at drug users who have undergone curative programs. The goal is that he does not use again and is free of follow-up diseases caused by former drug use. Drug users can experience physical damage (nerves, brain, blood, heart, lungs, kidneys, liver and others), mental damage, changes in character to the negative social direction and follow-up diseases (HIV / AIDS, hepatitis, syphilis etc.)

That is why drug treatment without recovery efforts (rehabilitation) is not useful. After recovering, there are still many other problems that will arise. All these negative impacts are very difficult to overcome. Therefore, many drug users who when "are aware" actually experience despair; then kill yourself. The most common method of suicide by drug users is by injecting themselves with excessive doses of drugs so that they experience an overdose (OD). The cause of the most suicide attempt is despair because he knows he has HIV / AIDS, or is annoyed that he cannot escape from drugs.

Rehabilitation is a restoration (repair, recovery) of normality, or recovery towards the most satisfying status for individuals who have suffered mental illness. Rehabilitation is also understood as an effort to restore Narcotics addicts to live physically and mentally healthy so they can adjust and improve their skills, knowledge and intelligence in the environment. Handling Narcotics cases with rehabilitation practices is carried out so that legal justice can be carried out properly.

Given that in this criminal act the perpetrator is also a victim, the practice of recovery is given to drug addicts not only as a form of punishment. The principles of victim protection are also one of several things that encourage the birth of punishment in the form of rehabilitation.

Law number 35 of 2009 concerning narcotics mentions two concepts of rehabilitation of narcotics addicts, namely medical rehabilitation and social rehabilitation. Medical rehabilitation is a process of integrated medical activities to free addicts from Narcotics dependence. Whereas social rehabilitation is a process of integrated medical activities, both physical, mental and social, so that former narcotics addicts can return to carrying out social functions in community life.

Article 54 states that addicts and victims of drug abuse must undergo medical rehabilitation and social rehabilitation. In the original explanation 54, it is stated that what is meant by victims of drug abuse is people who accidentally use drugs because they are persuaded, deceived, deceived, forced, and threatened to use Narcotics. Is it true that protection for Narcotics addicts has been achieved with the enactment of Article 54 of Law No. 35 of 2009? The question is, what about the provisions that apply in article 127? Article 127 of Law No. 35 of 2009 stipulates that: (1) every abuser uses: a. Group I Narcotics for oneself is punished with imprisonment for a maximum of 4 (four) years; b. Narcotics class II for yourself is punished by imprisonment for a maximum of 2 (two) years; and c. Group III Narcotics for oneself is subject to a maximum of 1 (one) year imprisonment. (2) In deciding the case as referred to in paragraph (1), the judge must pay attention

to the provisions referred to in article 54, article 55, and article 103; (3) In the case of misuse as referred to in paragraph (1) can be proven or proven as victims of Narcotics abuse, these abusers must undergo medical rehabilitation and social rehabilitation.

Judging from the definition, what is meant by Narcotics addicts is people who use or abuse Narcotics and are in a state of dependence on Narcotics, both physically and psychologically. While what is meant by misuse is people who use Narcotics without rights or against the law.

While on the other hand, namely Article 103 of Law No. 35 of 2009 stipulates that: (1) Judges who examine cases of Narcotics addicts can: a. decide to order the concerned person to undergo treatment and / or treatment through rehabilitation if the Narcotics addict is found guilty of Narcotics crime; or b. stipulates to order the concerned person to undergo treatment and / or treatment through rehabilitation if the Narcotics addict is not proven guilty of Narcotics crime.

The three articles, namely Article 127, Article 54 and Article 103 of Law No. 35 of 2007, it can be seen how difficult it is to determine how the actual form of punishment must be imposed on Narcotics addicts, especially in the case the author mentioned above as an example.

Article 128 reads: 1) Parents or guardians of addicts who are not old enough, as referred to in Article 55 paragraph (1) who deliberately do not report, are punished with imprisonment for a maximum of 6 (six) months or a maximum fine of Rp1,000,000 , 00 (one million rupiah). 2) Narcotics addicts who are not of sufficient age and have been reported by their parents or guardians as referred to in Article 55 paragraph (1) are not prosecuted. 3) Narcotics addicts who are of sufficient age as referred to in Article 55 paragraph (2) who are undergoing medical rehabilitation 2 (two) times the period of treatment of doctors in hospitals and / or medical rehabilitation institutions appointed by the government are not prosecuted. 4) Hospitals and / or medical rehabilitation institutions as referred to in paragraph (3) must meet health standards set by the minister. Elements of Article 128 paragraph (1) are: First element, parents or guardians of addicts who are not old enough as referred to in article 55 paragraph (1). There are two things that must be considered in this element first, whether people who are not old enough are addicts who are then referred to as addicts who are not of the second age whether the parents or guardians have legal ties as parents of children, both as parents and under the guardianship with addicts who are not old enough.

The second element, deliberately did not report. Deliberately is the inner attitude that underlies the action. Because it is intentionally in the inner field, then from a real attitude in the world of birth will be known that inner attitude. Not reporting means not carrying out the obligation of the member to know things that are known. Therefore, intentionally not reporting means an awareness manifested in an action not to tell things that are known even though the notification is obligatory either secretly or ignoring what is known or even hiding information.

Article 55 paragraph (1) stipulates that parents or guardians of Narcotics addicts who are not old enough must report to community health centers, hospitals and or medical rehabilitation and social rehabilitation institutions appointed by the government to obtain treatment and / or care through medical rehabilitation and social rehabilitation. Parents or guardians must know their child is an addict and still not old enough and apparently does not carry out their obligations to report to the community health center, hospital, and / or care through medical rehabilitation and social rehabilitation.

The criminal threat for parents / guardians who intentionally do not report as stipulated in Article 55 paragraph (1) is a maximum of 6 (six) months imprisonment or a maximum fine of Rp1,000,000.00 (one million rupiahs). This means that the judge has an alternative criminal choice in the form of confinement or penalty in making a decision. In contrast to the provisions in article 128 paragraph (2) determining Narcotics addicts who are not of sufficient age and have been reported by their parents or guardians as referred to in Article 55 paragraph (1) are not prosecuted.

In Article 128 paragraph 3, Narcotics addicts who are of sufficient age are required to report themselves or be reported by their families to public health centers, hospitals and or medical rehabilitation and social rehabilitation institutions appointed by the government. To get treatment and / or care through medical rehabilitation and social rehabilitation (Article 55 paragraph (2)).

V. Conclusion

The concept of prevention and tackling of drugs in Islamic law in the form of preventive, refresive and educative. Whereas in Indonesian positive law through law No. 35 of 2009 in the form of preventive, refresive, curative and educative efforts and has made compulsory provisions for the rehabilitation of addicts and victims of drug abuse.

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