



Legal Perspectives on the Misuse of Psychotropic Drugs by Indonesian Celebrities

Právne pohľady na zneužívanie psychotropných drog indonézskeymi celebritami

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Abstract:

The misuse of narcotics such as drugs committed by artists and experts can be classified due to two factors, namely internal factors and external factors. Internal factors related to their personal, family, and economic life, while external factors are usually from the surrounding and social environment. Law Number 35/2009 concerning on narcotics has provided different treatment for drug abusers, before this law came into force there was no different treatment between users, dealers, or producers of narcotics. On the one hand, drug users are criminals, but on the other hand, they are victims. This research aims to discuss the misuse of drugs by Indonesian celebrity from a legal perspective by using normative juridical research. The article identifies internal and external factors that contribute to drug misuse and highlights the need for coordinated action by relevant parties and law enforcement to effectively deal with the problem. The article emphasizes the importance of coordinated actions by relevant agencies, moral education, and community participation in drug eradication. Overall, the article provides insights into the challenges and solutions for addressing the misuse of psychotropic drugs by celebrities.

Keywords: *Misuse, Drugs, Criminal Law, Juridical Framework*

Abstrakt:

Zneužívanie omamných látok, ako sú drogy páchané umelcami a odborníkmi, možno klasifikovať v dôsledku dvoch faktorov, a to vnútorných faktorov a vonkajších faktorov. Vnútorne faktory



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súvisiace s ich osobným, rodinným a ekonomickým životom, zatiaľ čo vonkajšie faktory sú zvyčajne z okolitého a sociálneho prostredia. Zákon č. 35/2009 o omamných látkach zaisťoval rozdielne zaobchádzanie s užívateľmi drog, pred nadobudnutím účinnosti tohto zákona nebolo rozdielne zaobchádzanie medzi užívateľmi, dílermi alebo výrobcami narkotík. Užívatelia drog sú na jednej strane zločinci, no na druhej strane sú obeťami. Cieľom tohto výskumu je diskutovať o zneužívaní drog indonézske celebritymi z právneho hľadiska pomocou normatívneho právneho výskumu. Článok identifikuje interné a externé faktory, ktoré prispievajú k zneužívaniu drog, a zdôrazňuje potrebu koordinovaného postupu príslušných strán a orgánov činných v trestnom konaní na efektívne riešenie tohto problému. Článok zdôrazňuje dôležitosť koordinovaných krokov príslušných agentúr, morálnej výchovy a účasti komunity na eradikácii drog. Celkovo článok poskytuje pohľad na výzvy a riešenia pri riešení zneužívania psychofarmák celebritymi.

Kľúčové slová: *Zneužívanie, Drogy, Trestné právo, Právny rámec*

Introduction

Every human being has a life that is different from one another. Apart from happiness, human life is not free from problems. Various types of problems will always arise in the lives of every human being. Public figures, commonly known as celebrities, are one example of individuals known by many people. Celebrity is usually recognized through their achievements or works. However, in Indonesia, there are now many artists who pursue popularity through their achievements and sensational problems. This problem is intentionally created to make their popularity easier to be recognized. For example, in a case of drug abuse, some drug cases have ensnared several names of celebrities.

Drug abuse in Indonesia is still an urgent and complex issue. This problem has become prevalent over the past decade. The number of drug users or addicts has increased significantly; criminal drug cases are increasingly exposed, and the patterns are more diverse ¹. Most users said they used drugs to overcome the difficulty of sleeping. The celebrity drug case in Indonesia is the son of famous singers Achmad Albar, Fachri Albar, and Ozzy Albar. Both stumbled upon drug abuse cases, namely 0.8 grams of crystal methamphetamine, 13 Dumolite pills, one Calmlet pill and several pairs of crystal methamphetamine smoking devices by Fachri Albar and 2.6 grams of marijuana by Ozzy Albar.

Constitution Number 22 of 1997 concerning psychotropics explains that Narcotics are substances or drugs derived from plants or non-plants, both synthetic and semi-synthetic, which cause a decrease or change in consciousness, loss of taste, pain relief and pain relief, and dependence. Thus, most users use it to relieve their pain or make their immune stronger during their busy days ².

There are two types of psychological conditions causing a person, especially an

¹ Maudy Pritha Amanda, Sahadi Humaedi, and Meilanny Budiarti Santoso, "Penyalahgunaan Narkotika Di Kalangan Remaja (Adolescent Substance Abuse)," *Jurnal Penelitian & PPM* 4, no. 2 (2017): 339–345.

² Anton Sudanto, "Penerapan Hukum Pidana Narkotika Di Indonesia," *ADIL: Jurnal Hukum* 7, no. 1 (2017): 137–161, <https://media.neliti.com/media/publications/217402-penerapan-hukum-pidana-narkotika-di-indo.pdf>.

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artist, to get caught up in drug abuse cases. First is the desire to be considered to look different. These factors are also influenced by the environment around them or their lifestyle. Other factors are influenced by their work demands and professionalism in public. All public figures carry the demands of a hidden role or even contrary to their original character³. Thus, they always need more stamina to look fresh and fit to maintain their appearance. Because their busy job has no limit, drugs are believed to be a booster in their daily life⁴.

Moreover, being useful in the medical world of narcotics and psychotropic drugs can also jeopardize the future of the younger generation due to misuse of usage that is not following the doctor's recommendations. This perception has now spread to almost everyone, carried out by irresponsible individuals for personal gain. Quoted from the *United Nations Office on Drugs and Crime (UNODC)* data, the spread of drugs in Southeast Asia is one of the largest markets for methamphetamine. Drug abuse is increasing yearly, and the space has now spread to all ages, especially teenagers, so the government must impose strict regulations on the spread and use of these drugs. The drug problem is now entering the modern era. Every element of the country, not only in artists but from adults, teenagers to, children, the poor to the rich, from public figures to ordinary people, and even some from politicians to law enforcement officers, also inseparable from drugs; it will not be completed by being handled by the government and law enforcement officials, because it is necessary to involve all elements of society to participate also play an active role in preventing and eradicating the abuse and distribution of narcotics.

Indonesian laws and regulations stipulate severe penalties for drug producers and dealers. Law No 35 of 2009 also defines drug addicts and abusers as subjects of drug crimes, although they can be classified as victims of drug crimes. Law Number 35 of 2009 allows medical and social rehabilitation for drug addicts and abusers in Articles 54, 103, and 127. 35/2009, the Supreme Court also issued Circular Letter No. 4/2010 (*SEMA*) on the placement of drug users, drug victims and drug addicts in medical and rehabilitation institutions; The existence of joint regulations dealing with drug abusers and victims⁵.

Criminal law is a set of legal regulations the State makes, which contains prohibitions and obligations. In contrast, violators of these prohibitions and obligations are subject to sanctions that can be separated by the State⁶. Meanwhile, a criminal offense can be said to be an act prohibited by the rule of law, where the

³ Firdaus Anwar, "Selain Millen Cyrus, 5 Artis Ini Juga Pernah Ketahuan Konsumsi Benzo," *Health Detik*, last modified 2021, <https://health.detik.com/berita-detikhealth/d-5475256/selain-millen-cyrus-5-artis-ini-juga-pernah-ketahuan-konsumsi-benzo>.

⁴ Helmi Syarif, "Ini 3 Faktor Banyak Artis Yang Masih Terjerat Kasus Narkoba," *SINDO NEWS*, last modified 2021, <https://metro.sindonews.com/read/321272/170/ini-3-faktor-banyak-artis-yang-masih-terjerat-kasus-narkoba-1612188126>.

⁵ Vivi Ariyanti, "The Victims of Drugs Abuse and Their Legal Status in The Indonesian Narcotics Law," *International Journal of Business, Economics and Law* 13, no. 4 (2017): 119–123, <https://ijbel.com/wp-content/uploads/2017/10/LAW-66.pdf>.

⁶ "The Nature, Purpose, and Function of Criminal Law," in *Contemporary Criminal Law* (SAGE Publications, 2022), 1–20.

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prohibition is followed by a sanction and a threat in the form of punishment for anyone who violates it. Therefore, criminal law is the whole set of rules that determine what actions are prohibited and included in criminal offenses and what penalties can be imposed on those who commit them ⁷.

Psychotropic is a natural or static substance or drug that is not narcotics and has a psychoactive effect that can cause typical changes in mental activity and behavioral attitudes—described in Law Number 5/1997 about Psychotherapy. Psychotherapy is a substance / or non-narcotic drug, both natural and synthetic, with psychoactive properties that can affect the central nervous system selectively and cause dependence and addiction ⁸. In a quote from data from the Deputy for Drug Eradication by BNN in 2019, Indonesia has a large number of drug users at 4 million, with a death rate of 30 people daily. There are several reasons for people's overuse of drugs. Although the initial purpose is as a treatment, it can also develop into excessive use due to the following factors:

a. Personal Factors related to personality and constitution. Generally, the reasons for individual drug abuse are caused by the following reasons:

- The curiosity to try
- Self-confidence
- Following a trend or lifestyle
- Escape from life's problems
- Denial about the effects of dependency

b. Environmental Factors, the environment can shape the character and habits of individuals, generally the drug user have an environment that is not conducive. Some of these environments include:

- *Family*, caused by ineffective communication between parents and children, is one of the factors that cause someone to use drugs.
- *School* environment, the application of less consistent discipline can provide a gap for students to behave opposite from the norm and become one of the factors that cause drug abuse in the school environment.
- *Friendship Interactions* or peer environment, if an individual hangs out with friends who usually have drugs, he can follow the habits to fulfill the need for self-existence.
- *Society*, caused by the lack of supervision from the society around the person, can be one of the factors in using drugs. Moreover, weak regulation in certain communities affects people's morality.

The Criminal Justice System is a system set up in society to overcome the

⁷ Ruben Achmad, "Hukum Pidana Sebagai Suatu Sistem," *Legalitas: Jurnal Hukum* III, no. 2 (2012): 66–95, file:///D:/MY-PC/136-480-1-PB.pdf.

⁸ George F Koob and Nora D Volkow, "Neurobiology of Addiction: A Neurocircuitry Analysis," *Lancet Psychiatry* 3, no. 8 (2016), <https://pubmed.ncbi.nlm.nih.gov/27475769/>.

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problem of crime. Overcome means an effort to control crime within the limits of tolerance. Below are the foundations used in the criminal justice system⁹, including:

1. The legality *Principle* is the principle underlying the operation of the criminal justice system as a guarantee that the system will not work without a written legal basis.
2. The *Expediency Principle* is a principle that requires the operation of the criminal justice system to make the expected results balance with the costs.
3. Priority *Principle* is a principle that requires the criminal justice system to consider activities that need to be prioritized, for example, resolving cases that are considered to endanger the community or an urgent need.
4. Proportionality *Principle* is a principle that requires the criminal justice system in enforcing criminal law to be based on proportionality between the interests of society, the state, and the interests of criminal offenders and victims.
5. Subsidiarity *Principle* is a principle that explains that the application of criminal law is primary in tackling crime, but sanctions are only a second alternative.
6. Equality before the Law is the principle of fair treatment of all individuals from the point of view of the law.

For drug abusers or users, Indonesia enforces several principles in the criminal justice system based on Law Number 8/1981:

1. Treatment without discrimination in public is written in Article 5 Paragraph 1, Law Number 14/1970, which states that the court tries according to the law without discrimination of people. Moreover, it also states that the court needs to listen to the case according to the law without discrimination. It means that in front of the court, those (who are suspected, arrested, detained, prosecuted, and brought before the court)
2. *Presumption of Innocence*, based on the general explanation of point 3c of *KUHAP* regarding the principle that neutralizes the view of a suspect by applying the principle as the perpetrator arrested and processed in court must be presumed innocent and has permanent legal force.

Based on the explanation above, this study aims to discuss the phenomenon of celebrity drug misuse and their legal status in Indonesia. The study will use a problem conceptual, legal, and normative juridical approaches.

Research Method

This research will use a normative juridical research method; it is a method that

⁹ W Mathias, R C Rescorla, and E Stephens, *Foundations of Criminal Justice* (U.S. DEPARTMENT OF JUSTICE OFFICE OF JUSTICE PROGRAMS, 1980), <https://www.ojp.gov/ncjrs/virtual-library/abstracts/foundations-criminal-justice-0>.

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follows specific regulation that has been made by the state or known as applicable law¹⁰. The study will focus on analyzing legal regulations related to the misuse of psychotropic drugs by Indonesian celebrities. The research will use primary legal sources such as the Criminal Code (*KUHPP*), Law Number 5/1997 on Psychotropic, Law Number 35/2009 on Narcotics, and Minister of Health Regulation Number 49 of 2018. Secondary legal sources such as scientific books, journals, literature from reading internet links, scientific papers, and the work of writers and expert opinions from legal scholars will also be used. The data collection of legal materials will be done by a library-based study, such as by reading and studying regulations, laws, books, literature, magazines, journals, and articles. The collected legal materials will be analyzed and then described according to the facts of the research topic. The research will use a problem conceptual, legal, and normative juridical approaches. The research will also use keywords such as psychotropic drugs, law enforcement, the criminal justice system, narcotics law, substance abuse, celebrities, legal framework, coordination, equality before the law, subsidiarity principle, normative juridical research, criminal law, sanctions, legality principle, and expediency principle.

The Data Collection of legal materials was done by a library-based study such as by reading and studying regulations, laws, books, literature, magazines, journals, and articles. Moreover, the collected legal materials are analyzed and then described according to the facts of the research topic.

Results and Discussion

Types of Psychotropic Drugs

There are several types of drug that include as psychotropic drug according to law:

1. 1st Class psychotropic drugs are drugs with addictive power, which have a high potential to cause addiction. In addition, this class of psychotropic drugs is included in the prohibited drugs whose abuse can be subject to legal sanctions. The first class of drugs includes ecstasy, STP, and LSD.
2. 2nd class of psychotropic drugs has a risk of dependence under the first class of psychotropic drugs. Drugs that are included in this group are commonly used for the treatment of various diseases. Thus, if second-class psychotropic drugs are not under a doctor's prescription can cause addiction. Examples of group two psychotropic drugs are methamphetamine, amphetamine, Ritalin, and methylphenidate.
3. 3rd class of psychotropic drugs are drugs with moderate addictive power and are generally used for research and treatment. Psychotropic group, three examples are pentobarbital, flunitrazepam, buprenorphine, and luminal.

¹⁰ Theresia Anita Christiani, "Normative and Empirical Research Methods: Their Usefulness and Relevance in the Study of Law as an Object," *Procedia - Social and Behavioral Sciences* 219 (2016): 201–207.

4. 4th class of psychotropic drugs is drugs with mild addictive power that are usually used for treatment. Psychotropic drugs include diazepam, nitrazepam, lexotan, tranquilizers, and sleeping pills.

Public Figures and Drugs

Most public figures who use drugs say they use them as medical treatment or to strengthen their immune. Medically and legally, psychotropic drugs should only be used as prescribed and under the supervision of a medical professional. They are usually used to treat certain conditions or diseases, such as Mental or psychological disorders, Seizures or *epilepsy*, Parkinson's disease, sleep disorders such as insomnia or narcolepsy, and chronic fatigue syndrome ¹¹.

Prevention of psychotropic drug abuse is an important part of the overall effort to eradicate the abuse and illicit distribution of psychotropic drugs because "prevention is better than cure." Prevention is an effort to help individuals avoid the misuse of drugs by living a healthy lifestyle and changing the living conditions that make individuals susceptible to drug abuse. Drug abuse is using drugs and other harmful substances for purposes other than treatment or research and is used without following the correct dosage rules. The overuse of drugs will lead to addiction. The following is a form of prevention that can be used as a countermeasure against drug abuse cases, such as:

1. Information Communication and Education, Understanding the combination of these three concepts is a combined process of delivering messages. At the same time, educational activities encourage one to be a better person, knowledge, behavior, and skills of a person or group and society. While Information is facts and data, where education or the provision of learning also has a very important role
2. *Lifestyle Skills Education* or Life Skills, In this life skills education, a person, especially a public figure, must have the courage to face problems without feeling depressed, active and proactive to find solutions and there are 2;
 - a. Generic Life Skills, including personal skills, thinking skills (exploring, managing, making decisions, solving problems);
 - b. Specific Life Skills include academic, vocational, program promotive, and program preventive skills.

Obstacles in Tackling Psychotropic Drug Abuse in Public Figure

There are several obstacles to overcome in the case of psychotropic drug abuse by artists and public figures. It is written as follows:

- a. Specific obstacles, which come from internal factors within a person, include

¹¹ Nina Hertiwi Putri, "Apa Itu Psikotropika? Kenali Golongan Hingga Dampaknya," *SehatQ*, last modified 2022, <https://www.sehatq.com/artikel/golongan-psikotropika-dalam-dunia-medis-ini-sisi-baik-dan-buruknya>.

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family, economy, and personality, and there are also external factors that are strong enough to influence a person who comes from outside a person, such as social or friendship and social aspects. The problem of psychotropic drugs will not be fully eradicated because it is sometimes part of the drugs used for treatment. Therefore, the approach is to control the use of psychotropic drugs so that it is not excessive and misused. The settlement procedure must prioritize health care over arrest and confiscation. How we treat or deal with drug trafficking needs to be changed. It is no longer a matter of arrests and so on, but rather how the health treatment is, how the treatment for users is controlled. Distributors, as well as drug stores or pharmacies, must also be monitored on an ongoing basis.

- b. General Constraints, According to ¹², the main problem of law enforcement lies in the factors that may affect it. These factors have a neutral meaning, so that the positive or negative impact lies in the content of these factors, namely the legal factors themselves, law enforcement factors, namely the parties applying the law, facilities or facilities that support law enforcement, community factors, namely the environment in which the rule applies or is applied, and cultural factors, namely as a result of work, creation, and taste based on human nature in the association of life.

Psychotropic Drug and Law

Generally, Law Number 35/2009 on Narcotics is more comprehensive in regulating the actions taken to uncover criminal acts of narcotics abuse. Normatively, the Narcotics Law is good and should be able to prevent and provide a deterrent effect to perpetrators of narcotics crimes because the law regulates criminal threats that are more severe than previous laws and provides death penalty sanctions to perpetrators, fulfills the principles in the formation of rules, such as not applying retroactively (principle of legality), then there are no vague norms, empty norms or conflicts of norms in the law, does not conflict with other laws and regulations, so it should be implemented optimally by law enforcers in practice. Therefore, the legal factor itself is not an obstacle to law enforcement in overcoming criminal acts of drug abuse. The obstacle comes from law enforcement factors that are discriminatory in enforcing the law, and some of them are involved in illegal acts of narcotics abuse.

Facilities factors that support law enforcement, such as the lack of quality and quantity of resources of law enforcement officers at every level of justice, limited facilities and infrastructure that support the implementation of law enforcement, such as the absence of technological devices, lack of operational funds in carrying out law enforcement efforts using both penal and non-penal means, the lack of community participation in drug eradication, the culture of some members of the materialistic society that makes drug trafficking a profitable business and the transformation of western culture that is not by the nation's culture.

¹² Soekanto (2016)

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Drug Abuse Crime

Narcotics Crimes are regulated in Chapter XV Article 111 to Article 148 of Law Number 35 of 2009, a special provision. However, it is not explicitly stated in the Narcotics Law that the criminal acts regulated therein are crimes. It is undeniable that all criminal acts in the law are crimes. A crime or also known as an offense is an act that is prohibited from being committed by a person or group.

If the act is committed, it can be said to have violated the rules of the law and can be subject to criminal sanctions or penalties. *Delik*, according to the Online Dictionary of Indonesian Language of the Ministry of Education and Culture, is an act that can be subject to punishment because it violates the law or is a criminal offense. The reason is that if narcotics are only for treatment and scientific purposes, any activity outside of this is already a crime considering the magnitude of the consequences of unauthorized use of narcotics is very dangerous for human life.

Public figures are figures known to the public and are often the talk of the wider public or become examples of the community. Hence, if what is exemplified is good, the community will follow it; if the "artist" commits a despicable act, it will have bad consequences if followed by the community. Artists are similar to the general public, which was rampant some time ago. The reason for use could be medical needs, sleeplessness, stress, or escapism. Artists are more exposed to psychotropic drugs because of their easy access, money, and high activity. The punishment is not intended as an effort to take revenge but as a coaching effort for a criminal and a preventive effort against similar crimes.

Conclusion

Based on the description above, the authors conclude from writing this thesis, namely: That the abuse of narcotics, such as psychotropic drugs, committed by artists, by experts can be classified due to two factors, namely internal factors and external factors. Most drug addicts are not sentenced to rehabilitation as stipulated in the Narcotics Law. However, they are sentenced to imprisonment even though the provisions of the Law guarantee the arrangement of rehabilitation efforts, both medical and social rehabilitation for drug abusers and addicts.

In conclusion, abusing narcotics and psychotropic drugs is a serious problem in Indonesia that affects all elements of society, including artists, officials, and law enforcement officers. Implementing laws and regulations, such as Law Number 5 of 1997 on Psychotropic and Law Number 35 of 2009 on Narcotics, must be coordinated among relevant agencies. Law enforcers must have high morals and not be selective in drug cases. The criminal justice system must also balance the expected results with the costs incurred and operate within the limits of legality and expediency principles. The obstacle to law enforcement comes from discriminatory enforcement, lack of resources, and community participation. Therefore, it is necessary to involve all societal elements to prevent and eradicate the abuse and distribution of narcotics.

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Suggestion

- a. Narcotics Agency, the Ministry of Health, the Ministry of Trade and the Ministry of Transportation. Law enforcers must also have high morals, not be selective in handling drug cases, whether against artists or ordinary people and be careful not to become victims of drug abuse themselves. It is very dangerous and worrying if law enforcement officers who are supposed to enforce the law become drug addicts or users themselves. If the law enforcers are uncompromising and act straightforwardly, 'firmly will be one of the keys to the success of the eradication/abuse of narcotics in Indonesia.
- b. Need input about religion so that faith is strong and moral education from an early age; families and the environment must also be given counseling about what illegal drugs are.

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