

Prevention of Narcotics Crime According to Islamic Law Perspective

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Abstract

In the early days of Islam, there was no known narcotics as it is today, not even the Al-Qur'an or hadiths discussed the issue of narcotics. The explanation that is in the AlQuran and Hadith only matters of Khamr. However, narcotics is related to the word khamar because both have an impact, namely intoxication. In Islamic law there are sources of Islamic law, and one of the sources of Islamic law is by using the Kias method or it can be called legal analogy. Kias is an analogy of a problem where there is no legal stipulation (nash / argument) with a problem that already has a legal stipulation because of equality. The nature or danger caused by the misuse of narcotics is even more terrible than liquor or khamar, so the verses of the Koran that prohibit or prohibit liquor or khamar can be used as a basis or argument for the prohibition and prohibition of the use of narcotics. The procedure used to collect data in this study is documentation, namely the guidelines used in the form of notes or quotations, search for legal literature, books and others related to the identification of problems in this study both offline and online. Analysis of legal materials is carried out using the content analysis method (content analysis method) which is carried out by describing the material of legal events or legal products in detail in order to facilitate interpretation in the discussion. The criminal act can be closely related to criminal law. Criminal law is a part of the legal system, because it contains sanctions. Therefore, a person who is convicted is a person who is guilty of violating a criminal law regulation or committing a criminal act or a crime. Law Number 35 of 2009 concerning Narcotics determines several narcotics crimes, namely in Article 111 to Article 148 of Law Number 35 of 2009 concerning Narcotics. Regarding how to prevent drugs in the perspective of Islamic law, the writer reveals several things, namely religious guidance (Da'wah Islamiyah). Regarding religious guidance (dakwah Islamiyah) on drug prevention, this should pay attention to several things. First, parties who handle religious guidance (Da'wah Islamiyah) should consist of various aspects of disciplines consisting of: ulama (kiyai / ustadz), psychologists, criminologists, psychiatrists, doctors, legal practitioners, sociology, security forces (police). and other parties involved in this drug problem.

Keywords:

Narcotics Crime, Islamic Law.

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A. Introduction

Crime in human life is a social phenomenon that is always faced by every human being, society, and even a country. The fact has proven that crime can only be prevented and reduced, but it is very difficult to eradicate completely. Narcotics abuse has long been a very serious problem in various countries, both in developed countries and developing countries, including Indonesia. We know that the problem of Narcotics today is a problem that really attracts the attention of various groups, both the public and the Government, this is because narcotics are objects that can damage the users if they are not used in accordance with medical conditions.

Currently the narcotics crime is seen as a crime that is the enemy of mankind, therefore countries in the world including Indonesia continue to strive hard to eradicate this crime. Apart from that drug abuse is one of the activities that often causes conflicts and disputes. The terms 'conflict' and 'dispute' have become common discussions in human social life. This term is often used in everyday life in interactions. Experts have different views on the meaning of conflict and differences of opinion. The definition of conflict and dispute includes the notion of the difference in interests between two or more parties, but between conflict and dispute the two can be distinguished. In a conflict, there is a situation where two

or more parties face different interests, this will not develop into a dispute if the parties feel disadvantaged. only feeling dissatisfied or concerned, the conflict will develop into a dispute when the parties who feel aggrieved have expressed their dissatisfaction or concern, either directly to the party deemed to be the cause of the loss or other parties, all parties can resolve the conflict properly, then this it will happen. a dispute arises, but if the opposite occurs, the parties cannot agree on the resolution of the conflict. the problem then disputes will arise.¹

Narcotics crime is very dangerous for the survival of a nation and country, because it causes many losses and also involves children / adolescents in the nation's future generations as victims and perpetrators. Even today the crime of narcotics, especially in Indonesia, is getting more and more terrible, even though there have been regulations governing narcotics crimes, even the harshest punishment is the death penalty, but the crime is still committed and takes place continuously. In fact, the current narcotics abuse has reached an alarming level. It can be seen very clearly that the increasing prevalence of narcotics abuse among the public, including students, teenagers, state officials, political elites, even security forces and law enforcers themselves. The danger of abuse is not only limited to the addict, but can have further consequences, namely disruption to the social order of life which can have an impact on the collapse of a nation, state, and world.²

Consuming drugs besides being prohibited in Islamic law will also have a negative impact on the user, can damage the mind and body, as well as other consequences. Therefore Islamic law has prohibited the use of intoxicating objects, be it a little, especially in large quantities. The issuance of Law Number 35 of 2009 concerning Narcotics by the Government of the Republic of Indonesia is an action or government policy to control, supervise the use and distribution of narcotics and impose sanctions on narcotics abuse.

In the early days of Islam, there was no known narcotics as it is today, not even the Al-Qur'an or hadiths discussed the issue of narcotics. The explanation that is in the AlQuran and Hadith only matters of Khamr. However, narcotics is related to the word khamar because both have an impact, namely intoxication. In Islamic law there are sources of Islamic law, and one of the sources of Islamic law is by using the Kias method or it can be called legal analogy. Kias is an analogy of a problem where there is no legal stipulation (nash / argument) with a problem that already has a legal stipulation because of equality. The nature or danger caused by the misuse of narcotics is even more terrible than liquor or khamar, so the verses of the Koran that prohibit or prohibit liquor or khamar can be used as a basis or argument for the prohibition and prohibition of the use of narcotics.

The Muslims ask you, O Prophet, about the law of using khamar (liquor) to be consumed and traded. Khamar is anything that is intoxicating again eliminates and closes reason, whether in the form of food or drink, and they ask you about the law of gambling, which is taking property or giving it up consciously gambling, a form of bet from both parties say to them, in both of them there are many damage caused to religion, the world, reason and property. And in both, there are several benefits to humans in terms of obtaining property and others, but the sin resulting from both is greater than the aspect of its benefits. Consuming drugs besides being prohibited in Islamic law will also have a negative impact on the user, can damage the mind and body, as well as other consequences. Therefore Islamic law has prohibited the use of intoxicating objects, be it a little, especially in large quantities.

Based on the description above, the main problem can be drawn, namely how are the provisions of Indonesian National law regulating drug abuse? and how to tackle drug abuse from the perspective of Islamic law? The procedure used to collect data in this study is documentation, namely the guidelines used in the form of notes or quotations, search for legal literature, books and others related to the identification of problems in this study both offline and online. Analysis of legal materials is carried out using the content analysis method (centent analysis method) which is carried out by describing the material of legal events or legal products in detail in order to facilitate interpretation in the discussion.³

¹ Rahmat Ramadhani dan Umami Salamah Lubis, "Opportunities and Challenges for the Badan Pertanahan Nasional (BPN) in Handling Land Cases in the New Normal Era", *Legality: Jurnal Ilmiah Hukum* 29, No. 1, (2021): p. 5.

² M. Arief Hakim, *Bahaya Narkoba-Alkohol: Cara Islam Mencegah, Mengatasi, dan Melawan*, Bandung: Nuansa, (2004), p. 31.

³ Peter Mahmud Marzuki, *Penelitian Hukum*, Jakarta: Kencana Prenada Media Group, (2011), p.171.

B. Discussion

1. Indonesian National Law Regulating Drug Abuse

Indonesia is a law state where everything must be based on legal rules so that legal certainty can be found. legal certainty as aspired to, however, it is seen more as a routine activity. The Narcotics and Psychotropics Law does not discuss the definition of narcotics and psychotropic crime, but on the basis of the definition and explanation of the above criminal acts, it will assist in providing an understanding of narcotics and psychotropic crimes which of course still refers to the provisions contained in the above. Law Number 35 of 2009 concerning psychotropics. In order to facilitate understanding of the meaning of narcotics and psychotropic crimes, we will first explain the differences in terms of punishment and punishment. In the legal system, that the law or punishment imposed is related to what actions are punishable by criminal law, it must first have been listed in the Criminal Law, if there is no law that regulates, then the punishment cannot be imposed Chapter I article I paragraph (1) of the Criminal Code has a principle called "Nullum Delictum Nulla Poena Sine Praevia Lege Poenale", which in essence states that no act can be punished unless there is a provision in the Law which regulates beforehand. So herein lies the difference in terms legal and criminal. The meaning is that punishment must be based on the provisions of law, while punishment has a broader meaning.⁴

Crime can be closely related to criminal law. And criminal law is a part of the legal system, because it contains sanctions. Therefore, a person who is convicted is a person who is guilty of violating a criminal law regulation or committing a criminal act or a crime. Law Number 35 of 2009 concerning Narcotics determines several narcotics crimes, namely in Article 111 to Article 148 of Law Number 35 of 2009 concerning Narcotics. In Law Number 35 of 2009 concerning Narcotics, it is determined that the punishments that can be imposed are in the form of capital punishment, imprisonment, imprisonment and fines. Corporations can also be imposed in the form of revocation of business licenses and / or revocation of legal entity status. The problem of criminal policy is one of the areas that should be the center of attention of criminology, because criminology is a study that aims to find and determine the factors that lead to the emergence of crimes and criminals. The study of criminal law policy (Penal Policy), which is a part of criminal law, is closely related to the discussion of national criminal law, which is one of the major problems facing the Indonesian nation. Penal policy includes what actions should be criminal acts and what sanctions are otherwise used or imposed on the offender.⁵

The use of narcotics can result in a dependency syndrome if the user is not under the supervision and guidance of a health worker who has the expertise and authority to do so. This is not only detrimental to abuse, but also has social, economic and national security impacts, so that it is a threat to the life of the nation and state. The abuse of narcotics encourages the existence of narcotics crime, while the illicit trafficking referred to here is the circulation of narcotics in Indonesia without the support of documents and requirements as determined by the Narcotics Law Number 35 of 2009 concerning Narcotics. Law can be said to be a pro of conduct men behavior in society and is the normative of the state and its citizen as a legal system that can function as social control (as a tool of social control), as a means of dispute settlement and to renew society. . Friedmann states that legal systems are of course not a static.⁶

In accordance with the Narcotics Law Number 35 of 2009 concerning Narcotics, Drugs are divided into 3 types, namely Narcotics, Psychotropics and other addictive substances.⁷

- a. Narcotics, According to Soerdjono Dirjosisworo (1986) that the definition of narcotics is "a substance that can have a certain effect on those who use it by inserting it into the body." This influence can be in the form of anesthesia, loss of pain, excitement and hallucinations or the appearance of delusions. These characteristics that are known and found in the medical world are intended to be used for treatment and human interests in the field of surgery, pain relief and others. Narcotics are classified into 3 groups, namely:
 - 1) Narcotics class I are the most dangerous narcotics. Very high addictive power. This group is used for research and science. Examples: marijuana, heroin, cocaine, morphine, and opium.

⁴ Doni Albert Kela, "Penyalahgunaan Narkotika Ditinjau Dari Undang-Undang No. 35 Tahun 2009 Tentang Narkotika", *Lex Crimen* IV, No. 6, (2015): p. 105.

⁵ *Ibid.*, p. 106.

⁶ *Ibid.*, p. 106-107.

⁷ Bayu Puji Hariyanto, "Pencegahan dan Pemberantasan Narkotika Di Indonesia", *Jurnal Daulat Hukum* 1, No. 1, (2018): p. 204.

- 2) Narcotics class II, are narcotics that have a strong addictive power, but are useful for treatment and research. Examples: pethidine, benzetidine, and betametadol.
- 3) Narcotics category III, are narcotics that have mild addictive power, but are useful for treatment and research. Example: codeine and its derivatives.
- b. Psychotropics, Definition Psychotropics are non-narcotic substances or drugs, both natural and synthetic, which have psychoactive properties through a selective influence on the central nervous system that causes distinctive changes in normal activities and behavior. Psychotropics are further classified into 4 groups:
 - 1) Psychotropic group I, is a very strong addictive power, the benefits are not yet known for treatment and its efficacy is being studied. Examples: MDMA, LSD, STP, and ecstasy.
 - 2) Group II psychotropic, is a psychotropic with strong addictive power and is useful for treatment and research. Examples: amphetamine, methamphetamine, and methakualone.
 - 3) Group III psychotropic is psychotropic with moderate addictive power and is useful for medication and research. Examples: lumibal, buprenorsina, and fleenitrazepam.
 - 4) Group IV psychotropic is a psychotropic which has mild addictive power and is useful for medication and research. Examples: nitrazepam (BK, mogadon, dumolid) and diazepam.
- c. Addictive substances, other addictive substances are substances other than narcotics and psychotropic substances that can cause dependence on the user, including:
 - 1) Cigarettes
 - 2) The group of alcohol and other drinks which are intoxicating and addictive.
 - 3) Thiner and other substances, such as wood glue, liquid and acetone eraser, paint, gasoline which when inhaled can become intoxicating.

The National Narcotics Agency (BNN) is a non-ministerial government institution that is domiciled under and responsible to the President through the coordination of the Chief of the Indonesian National Police. In carrying out the task of eradicating the abuse and illicit trafficking of Narcotics and Narcotics Precursors, the National Narcotics Agency has the authority to carry out investigations and investigations into the abuse and illicit trafficking of narcotics and narcotics precursors. The National Narcotics Agency (BNN) is also tasked with compiling and implementing national policies on the prevention and eradication of the abuse and illicit trafficking of psychotropic substances, precursors and other addictive substances except for tobacco and alcohol addicts. In carrying out the task of eradicating the abuse and illicit trafficking of Narcotics and Narcotics Precursors, the National Narcotics Agency (BNN) has the authority to carry out investigations and investigations into the abuse and illicit trafficking of Narcotics and Narcotics Precursors. The existence of a national narcotics agency in accordance with the Presidential Decree No.17 / 2002 dated 22 March 2002, in the context of tackling and eradicating illicit narcotics trafficking, presumably must be more active in coordinating relevant government agencies in policy formulation and implementation in the field of availability, prevention and eradication of abuse and illicit trafficking. narcotics, psychotropic substances, precursors and other additives.⁸

The existence of Law Number 35 of 2009 is a political legal effort by the Indonesian government to tackle narcotics crime. The formation of Law Number 35 of 2009 is expected to be able to tackle illicit trafficking and abuse of narcotics by using criminal or penal law facilities. Provisions regulating the prevention of narcotics crime have been prepared and enforced. Through Law Number 35 of 2009, all matters relating to narcotics are regulated. The existence of the Narcotics Law is one of the Indonesian government's political legal efforts to tackle narcotics crime. The enactment of the Narcotics Law is expected to be able to tackle the illicit trafficking and abuse of narcotics. It should be emphasized that the Narcotics Law uses non-penal and penal means. Non-penal or law enforcement without using criminal sanctions and using penal means, namely law enforcement with criminal sanctions. Non penal means are more focused on prevention efforts. Quoting the opinion of Muladi and Barda Nawawi Arief, the aim of using non-penal advice has a preventive effect on crime.⁹

Based on Article 6 paragraph 1 of Law no. 35 of 2009 concerning Narcotics divides narcotics into three groups, namely: First, Narcotics Category I is narcotics that can only be used for the purpose of

⁸ *Ibid.*, p. 206.

⁹ Muladi, dan Barda Nawawi Arief, *Teori-Teori dan Kebijakan Hukum Pidana*, Bandung: Penerbit Alumni, (2010), p. 159.

developing science and is not used in therapy, and has a very high potential to result in dependence. Second, Narcotics Category II are narcotics with medicinal properties used as a last resort and can be used in therapy and / or for the purpose of developing science and have a high potential to cause dependence. Third, Narcotics Category III are narcotics with medicinal properties and are widely used in therapy and / or scientific development purposes and have a mild potential to result in dependence..

The criminal law policy as stipulated in Law Number 35 of 2009 only prohibits the use of narcotics without a permit in accordance with this law. The use of narcotics that is not in accordance with statutory regulations is considered an act against the law, because its use is not for the benefit of medicine and science. Narcotics crime is also often used as a thriving business arena because narcotics have an addictive effect. The nature of this dependence has an impact on mental, both physical and psychological damage to narcotics users, most of whom are adolescents in the next generation of the nation. Law Number 35 Year 2009 also contains a provision that anyone who possesses and / or uses narcotics illegally and is against the law, the punishment can be in the form of imprisonment, death penalty, and fines. Barda Nawawi Arief is of the opinion that overcoming crime by using criminal sanctions is the oldest method, as old as human civilization itself or the oldest philosophy of crime control. The provisions in Law Number 35 of 2009 concerning Narcotics are a form of the formulation and determination of criminal sanctions by legislators as a formulation policy for practical interests for law enforcement officials in dealing with problems related to the crime of narcotics abuse. Another purpose of the legislators in formulating basic provisions regarding the determination of the problem of narcotics abuse as a crime based on the idea that narcotics abuse is against religion, morals, and Pancasila morals, as well as endangering future generations of life of the community, nation and state.¹⁰

2. Prevention of Drug Abuse according to Islamic Law Perspective

In contrast to the Western criminal law system which bases and justifies the theory of punishment on the view of social utility, the theory of punishment in the Islamic criminal law system is based more on the source of God's revelation texts written in the Qur'an and the Sunnah of the Prophet Muhammad. . Islam explicitly states that it respects human dignity. However, in seeing humans, the Qur'an has combined the two opposing sides of this creature. Man is considered a very noble being, but at the same time he is also considered a very despicable being. Humans are considered to be very noble creatures because Allah gave them reason that was not given to other creatures. Humans are considered as very despicable creatures when they themselves commit violations prohibited by Allah SWT. This is the same as insulting himself by not protecting himself, his dignity and dignity. The two opposing sides are also translated by religion through its legal system. When a human being is innocent, his rights and dignity are considered sacred and must be fully protected. On the other hand, when a person's guilt reaches the crime of qishash diyat or hudud, then one by one the joints of his glory collapse, then he is treated by law on the basis of his humiliation human.¹¹

According to Islamic Criminal Law, the legal status of a narcotics abuser or narcotic addict is an offender whose victim is himself. Violating acts in the Al-qur 'an according to Surah An Nahl verse 90 are acts of evil, evil and enmity. Consuming narcotics is a heinous act or self-abuse in which the victim is yourself. Unscrupulous acts are actions in which the victim is another individual, while the victim's act of hostility is the community at large. Abuse of Narcotics can be classified as an evil act if the perpetrator participates in making and distributing narcotics to other people. In fact, Islamic criminal law made by Allah and revealed to be obeyed by mankind is not for the benefit of Allah, but for the benefit of mankind itself. So, when there is a violation of the rules established by Allah, the one who loses and accepts the harm is mankind itself, the victim himself or others. In Islamic legal philosophy, Islamic law comes from the Al-qur 'an and As-sunnah (Hadith). Therefore it is called law is religion. Islamic law is also called Islamic Sharia. Sharia, in terms of terminology, is a set of divine norms that govern the relationship between humans and Allah, human relations with other humans in social life, human relations with objects and the natural environment..¹²

Islamic criminal law protects 5 (five) things that are essential in life, namely religion, soul, mind, descent and property. The problem of narcotics is a problem that can damage the mind because

¹⁰ *Ibid.*, p. 18.

¹¹ Kurniasih Bahagiati, "Filsafat Pemidanaan Terhadap Penyalah Guna Narkotika Bagi Diri Sendiri Dalam Perspektif Hukum Positif Dan Hukum Pidana Islam", *Jurnal Ilmiah Ilmu Hukum* 18, No. 1, (2020): p. 126.

¹² *Ibid.*, p. 127.

dangerous substances can destroy the mind. Narcotics is analogous to khamr because it did not exist at the time of the Prophet Muhammad. So that the victim of narcotics abuse for himself is none other than himself, namely his damaged mind. In fact, reason is human capital to think, work and work for the sake of preserving his life, as well as a capital given by Allah SWT to become a caliph on earth. Punishment is given to someone who makes a finger so that person does not repeat the crime, as well as to teach others not to do Jarimah. Why do sanctions need to be applied, because rules that are only prohibitions and orders are not enough. The purpose of punishment in Islamic penalties is more accurately equated with a combined theory. The joint theory bases the crime on the principle of retaliation and the principle of defense of the legal order of society. In a combined theory, the retaliation imposed must not exceed the wrong done by the perpetrator of the crime, this is in line with retaliation in Islamic penalties. The joint theory also considers that punishment must fulfill elements of retaliation and elements of community protection. Even in Islamic penalties, the punishment must fulfill two aspects, namely the aspects of prevention and education. Both of these aspects will produce beneficial aspects, namely good morals.¹³

Al-khamr etymologically means covering, what is meant by khamr is something that covers the head like a turban or veil. Named kahmar because it covers up or confuses reason. While the term drug is an abbreviation of Narcotics, Psycho-Tropical and other addictive materials. The term Drugs is based on Presidential Decree No. 17 of 2002 since the formation of the National Narcotics Agency (BNN). Whereas the previous term NAZA (Narcotics and Addictive Substances), the term used by the Indonesian Ministry of Health (DEPKES), and NAFZA (Narcotics, Psychotropics and Addictive Substances), the term used by DEPKES and DEPSOS (Ministry of Social Affairs of the Republic of Indonesia), has no longer been used since the Presidential Decree. . About Narcotics in Arabic terms, there are at least 3, namely al-Mukhaddirât, al-aqâqir, and hasyîsy. Narcotics alMukhaddirât, etymologically means something that is hidden, darkness or weakness. Taken from the word al-Khidr which means a curtain hanging in the corner of a girl's room. The word is usually used as a house curtain. The word al-Mukhaddirât can also be taken from the word al-Khadar which means laziness and weakness. Al-Khadirbentuk fâ'il or the subject of the word al-Khadar which means people who are weak and lazy.¹⁴

The purpose of formulating Islamic law is to realize and maintain five main objectives, namely religion, soul, mind, honor and descent, as well as wealth. These five basic things must be realized and maintained if one wants a happy life in the world and in the next day. All efforts to realize and maintain the five points mentioned above are pious acts that must be carried out by Muslims. On the other hand, any action that could threaten the safety of one of these items is considered a prohibited crime. Anyone who observes the intricacies of Islamic law will admit that each of its formulations refers to the realization or maintenance of these five points. From this description, crimes against religion can be categorized into five groups, namely crimes against religion, crimes against soul or self, crimes against reason, crimes against honor and descent, and crimes against property. Each of these crimes is described at length in the fiqh literature in various schools. Major crimes against these five points are regulated in the chapter jinâyat. Jinâyah or Jarîmah, namely criminal acts in Islamic law in the form of prohibition of syara 'which is threatened by Allah with the punishment had or ta'zîr. The punishment had is a punishment determined through revelation which is the right of Allah as syâri '. Ta'zîr punishment is a punishment that has no meaning, and is determined based on the judge's consideration (qâdhi).¹⁵

Given the imbalance between the benefits caused by drugs on the one hand and the magnitude of the harm caused on the other, Islamic law clearly states that drug abuse must be punished according to what it does. Drugs with various types, forms and names that have identified their effects on the mind and body, are then categorized as khamr, which are strictly and strictly prohibited by Allah and His Messenger. Meanwhile, regarding the severity of punishment for khamr users is not mentioned in the Koran but only mentioned in the instructions of al-Sunnah of the Prophet Muhammad, namely "Has told us Hisham bin 'Ammar, Has told us Syuaib bin Ishak, Has told us Saîd bin Abî 'Arubah bin Bahdalah from Zakwan Abî Shâlih from Mu'awiyah bin Abî Sufyân that the Messenger of Allah has said: "If they drink khamr, then let you beat / vol, then if you drink again then beat it, then if you drink again, then

¹³ *Ibid.*, p. 127-128.

¹⁴ Acep Saifullah, "Narkoba dalam Perspektif Hukum Islam dan Hukum Positif", *Jurnal Al-Adalah* XI, No. 1, (2013): p. 48.

¹⁵ *Ibid.*,

drink again then kill ". Responding to the above hadith, the scholars agree that those who drink khamr are subject to a hadith in the form of a beating or whipping, either a little or a lot. However, the scholars differed regarding the severity of the legal sanctions. From the Mâlikiyah and Hanâfiyah schools of thought that drinkers of khamr are subject to sanctions for 80 lashes, meanwhile from the Syâfi'iyah mazhab it is stated that those who drink khamr are sanctioned with 40 lashes. Meanwhile, from the Hanbali school there were differences of opinion, namely that there were those who thought 80 times were lashes and others thought that only 40 times were lashes.¹⁶

Imam Shafi'i stated that the had for khamr drinkers is 40 lashes, this is based on the actions of 'Ali bin Abî Talib who whipped Walîd bin' Uqbah with 40 lashes, this is also a legal sanction ordered by the Prophet which was carried out at Abû Bakar al-Siddiq served as caliph. As in a hadith which means "From Ali to the story of Walîd bin Uqbah, Rasulullah Saw. To whip khamr drinkers / drug addicts 40 times, Abû Bakr lashed 40 times, and 'Umar lashed 80 times, all of which is sunnah and this is what I like more (ie 80 times) ". (Narrated by Muslim). Meanwhile Abû Hanîfah, Mâlik and Ahmad argued that the punishment for drinking khamr was 80 lashes. This is based on the action of 'Umar bin Khattab, according to which they became ijma' at the time of the caliph 'Umar bin Khattab because none of the companions denied it. In the case of 'Umar's atsar, which stipulates 80 lashes as a had for Imam Shafi'i drinkers, responds that the sanction of 80 lashes is had, but only as ta'zîr, because the punishment had for drinking khamr is 40 times lashes. as practiced by the Prophet.¹⁷

Regarding how to prevent drugs in the perspective of Islamic law, the writer reveals several things, namely religious guidance (Da'wah Islamiyah). Regarding religious guidance (dakwah Islamiyah) on drug prevention, this should pay attention to several things. First, parties who handle religious guidance (Da'wah Islamiyah) should consist of various aspects of disciplines consisting of: ulama (kiyai / ustadz), psychologists, criminologists, psychiatrists, doctors, legal practitioners, sociology, security forces (police). and other parties involved in this drug problem. Second, careful preparation and neat planning and targeted, effective, efficient and professional programs. So that it can achieve maximum and satisfying results. Third, the guidance should not take the form of threats of intimidation and pressure. But it is endeavored to explore one's potential (tazkiyah al-qalb) to be moved to follow the Koran and Hadith. So that with full awareness carry out Allah's commands and stay away from His prohibitions. Fourth, guidance is designed in such a way in the form of lectures / seminars / discussions as friendly and as easy as possible, so that the benefits can be felt by the community. Fourth, the integration of social, cultural and moral spiritual movements that directly involve the role of parents, community leaders, religious leaders, educators and real government action is an effective step and needs to be developed in the future. Fifth, the dakwah movement published through religious broadcasts on several television stations, is quite varied and even more dynamic, regarding the prevention and handling of rehabilitation for victims of drug abuse.¹⁸

Meanwhile, according to Indonesian positive law, the method of overcoming drug abuse is an effort taken in the framework of enforcing both the use, production and illicit trafficking of narcotics that can be carried out by every person, be it individuals, society and the state. Criminal policy patterns as an effort to tackle crime. To deal with drug trafficking in the country, the Government of Indonesia has regulated it through Law Number 35 of 2009 concerning Narcotics. Through this Law, the government aims, among others, to ensure the availability of narcotics for the benefit of health services and / or the development of science and technology; prevent, protect and save the Indonesian people from narcotics abuse; eradicate illicit narcotics trafficking; and ensure the arrangement of medical and social rehabilitation efforts for narcotics abusers and addicts. In addition to implementing Law Number 35 of 2009 concerning Narcotics, the government has also strengthened the law through Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts. Not only that, the government also issued Presidential Instruction No.12 of 2011 concerning the Implementation of National Policies and Strategies for the Prevention and Eradication of Drug Abuse and Illicit Drug 2011-2015 as a form of joint commitment of all components of society, nation and state. Lastly is the Regulation of the Minister of Home Affairs (Permendagri) Number 21 of 2013 concerning Facilitation for the Prevention and Abuse of Narcotics, which includes the participation of

¹⁶ *Ibid.*, p. 49.

¹⁷ *Ibid.*, p. 50.

¹⁸ *Ibid.*,

the governor / regent / mayor. In order to make efforts to prevent, eradicate and tackle the abuse and illicit trafficking of narcotics across countries, it is necessary to use a multi-dimensional approach by utilizing various scientific disciplines from the application of technology. As expressed by Wijaya, he said that the prevention of illicit trafficking and narcotics abuse can be pursued through various strategies and government policies which are then carried out comprehensively and simultaneously by related officials in collaboration with components of the anti-drug community. The strategies for dealing with illicit drug trafficking and abuse are as follows:¹⁹

- a. Drugs Demand Reduction Strategies, Demand reduction strategies include prevention of drug abuse. These efforts include:
 - 1) Primary or early prevention, which is aimed at individuals, families or communities and communities who have not been touched by the problem of drug abuse and trafficking, with the aim of making individuals, families and groups to reject and fight drugs.
 - 2) Secondary prevention or vulnerability prevention, which is aimed at groups or communities that are prone to drug abuse. This prevention is carried out through education, counseling, and training so that they stop, then carry out positive activities and keep them prioritizing health.
 - 3) tertiary prevention, namely the prevention of relapse of users / addicts who have participated in the therapy and rehabilitation program, so that they do not relapse..
- b. Supervision of Drug Preparations
 - 1) Supervision of the legal route for drugs, drugs and precursors for medical and scientific purposes as well as for industrial purposes is supervised by the government. Supervision of this legal route includes supervision of planting, production, importation, export, transportation, warehousing, distribution and delivery by related agencies, in the event that this is the forestry department.
 - 2) Control of Illegal Narcotics Pathways, Control of illegal drug routes includes prevention on land, at sea and in the air. The national narcotics agency has established an airport and seaport interdiction task force (a preventive task force in the area of airports and seaports).
- c. Reducing the Adverse Impact of Drug Abuse. Until now, the government has officially only recognized and implemented two strategies, namely reducing demand and controlling drug supplies. However, facing the high prevalence of OHD (people with HIV / AIDS) among the abuse of drugs with syringes in turn, on December 8, 2003, the National Narcotics Agency (BNN) held a memorandum of understanding with KPA (HIV / AIDS prevention commission), number 21 kep / menko / kesra / XII / BNN, which aims to build cooperation between the AIDS Commission (KPA) and BNN in the context of preventing the spread of HIV / AIDS in the eradication of narcotics abuse.

There is an important penal policy in the provisions of Law Number 35 of 2009 concerning Narcotics, namely:²⁰

- a. To protect the public from the dangers of abuse of Narcotics and to prevent and eradicate the illicit trafficking of Narcotics, it is regulated that Narcotics Precursors are substances or starting materials or chemicals that can be used in the manufacture of Narcotics. This Law is attached regarding Narcotics Precursors by classifying the types of Narcotics Precursors.
- b. Also regulated regarding criminal sanctions for the abuse of Narcotics Precursors for the manufacture of Narcotics. In order to create a deterrent effect on the perpetrators of abuse and illicit trafficking of Narcotics and Narcotics Precursors, the imposition of criminal sanctions is regulated, either in the form of a special minimum sentence, imprisonment of 20 (twenty) years, life imprisonment and death penalty. Such criminal sanctions shall be carried out based on the class, type, size and number of the Narcotics.
- c. To more effectively prevent and eradicate the abuse and illicit trafficking of Narcotics and Narcotics Precursors, it is regulated on the strengthening of existing institutions, namely the National Narcotics Agency (BNN). The BNN is based on Presidential Regulation Number 83

¹⁹ Wagimin Wira Wijaya, Pencegahan dan Pemberantasan Peredaran Narkoba Di Indonesia”, *Jurnal Intelijen & Kontra Intelijen* 2, No. 07, (2005):p. 153.

²⁰ O.C. Kaligis dan Soedjono Dirdjosisworo, *Narkoba dan Peradilan di Indonesia, Reformasi Hukum Pidana melalui Perundang-undangan dan Peradilan*, Jakarta: Kaligis Associates, (2006), p.25.

of 2007 concerning the National Narcotics Agency, the Provincial Narcotics Agency and the Regency / City Narcotics Agency. In this Law, the BNN is upgraded to become a Non-Ministerial Government Institution (LPNK) and strengthened its authority to carry out investigations. BNN is domiciled under the President and is responsible to the President. In addition, the BNN also has representatives in Provincial and Regency / City areas as vertical agencies, namely the Provincial BNN and Regency / City BNN.

- d. To further strengthen the Institution, all assets or assets that are the proceeds of the Narcotics and Narcotics Precursor crime and money laundering from the Narcotics and Narcotics Precursor crimes are also regulated based on court decisions that have obtained legal force and are still confiscated for the state and used for interests of implementing prevention and eradication of illicit trafficking of Narcotics and Narcotics Precursors and medical and social rehabilitation efforts.
- e. In order to prevent and eradicate the abuse and illicit trafficking of Narcotics and Narcotics Precursors, the modus operandi of which is increasingly sophisticated in this Law also regulates the expansion of wiretapping techniques, under cover buy techniques, and controlled delivery.), as well as other investigative techniques to track and uncover the abuse and illicit trafficking of Narcotics and Narcotics Precursors.
- f. In order to prevent and eradicate the abuse and illicit trafficking of Narcotics and Narcotics Precursors which is carried out in an organized manner and has a wide network beyond national borders, this Law regulates cooperation, both bilaterally, regionally and internationally.
- g. This Law also regulates the role of the community in efforts to prevent and eradicate abuse of Narcotics and Narcotics Precursors, including the awarding of community members who have contributed to efforts to prevent and eradicate abuse and illicit trafficking of Narcotics and Narcotics Precursors..

C. Conclusion

The criminal act can be closely related to criminal law. Criminal law is a part of the legal system, because it contains sanctions. Therefore, a person who is convicted is a person who is guilty of violating a criminal law regulation or committing a criminal act or a crime. Law Number 35 of 2009 concerning Narcotics determines several narcotics crimes, namely in Article 111 to Article 148 of Law Number 35 of 2009 concerning Narcotics. In Law Number 35 of 2009 concerning Narcotics, it is determined that the punishments that can be imposed are in the form of capital punishment, imprisonment, imprisonment and fines. Corporations can also be imposed in the form of revocation of business licenses and / or revocation of legal entity status.

Regarding how to prevent drugs in the perspective of Islamic law, the writer reveals several things, namely religious guidance (Da'wah Islamiyah). Regarding religious guidance (dakwah Islamiyah) on drug prevention, this should pay attention to several things. First, parties who handle religious guidance (Da'wah Islamiyah) should consist of various aspects of disciplines consisting of: ulama (kiyai / ustadz), psychologists, criminologists, psychiatrists, doctors, legal practitioners, sociology, security forces (police). and other parties involved in this drug problem. Second, careful preparation and neat planning and targeted, effective, efficient and professional programs. So that it can achieve maximum and satisfying results. Third, the guidance should not take the form of threats of intimidation and pressure. But it is endeavored to explore one's potential (tazkiyah al-qalb) to be moved to follow the Koran and Hadith. So that with full awareness carry out Allah's commands and stay away from His prohibitions. Fourth, guidance is designed in such a way in the form of lectures / seminars / discussions as friendly and as easy as possible, so that the benefits can be felt by the community. Fourth, the integration of social, cultural and moral spiritual movements that directly involve the role of parents, community leaders, religious leaders, educators and real government action is an effective step and needs to be developed in the future. Fifth, the dakwah movement published through religious broadcasts on several television stations, is quite varied and even more dynamic, regarding the prevention and handling of rehabilitation for victims of drug abuse.

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