



## Criminal Countermeasures Committed by Women in The Distribution of Narcotics (Case Studies at The Demak Police Station)

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ARTICLE INFO	ABSTRACT
<p><b>Keywords:</b> Criminal Prevention, Female Suspect, Narcotics Circulation</p> <p><b>How to cite:</b> Arifin &amp; Iskandar wibawa. (2023). Criminal Countermeasures Committed by Women in The Distribution of Narcotics (Case Studies at The Demak Police Station). <i>Veterans Law Review</i>. 6 (2). 210-222.</p> <p><b>Received:</b> 2023-08-09 <b>Revised:</b> 2023-08-19 <b>Accepted:</b> 2023-11-27</p>	<p>Based on data from the Demak Investigation Police in 2023, there is a female suspect who is a narcotics case in the Demak Police Station shows that prevention steps are optimal, but on the other hand it is necessary to analyze whether law enforcers are optimal and whether it is due to the granting of users and dealers who It is appropriate, or because of special guidance/handling. The research method used is empirical juridical legal research. The results of the Demak Regional Police research have carried out appropriate criminal law policies, which include what actions should be used as criminal acts and what sanctions should be given to the violators. So it can be concluded that law enforcement against narcotics crimes committed by women in the jurisdiction of the Demak Police Station is first, is starting from preventive measures (preventive) and the second by repressive way if the preventive way is not successful which is the core of the duties and authority of the police As a law enforcement in his capacity as an investigator. And there is no difference (all the same) law enforcement between abuse carried out by men or women, both dealers, dealers/couriers and users but the same treatment in terms of investigation. What distinguishes it is only when a woman's body search is carried out by a female police.</p>

### 1. Introduction

In narcotics criminal acts such as narcotics abuse in criminology studies can be classified as "crimes without victims" or "Victimless Crime". This classification refers to the nature of the crime, namely the existence of two parties who committed transactions or relationships (which are prohibited) but both feel they do not suffer losses over other parties.<sup>1</sup>

Narcotics abuse in addition to being dangerous to the user himself is also dangerous to the community environment, in order to fulfill his desire to get narcotics, the narcotics user certainly justifies any means to get it. For people

<sup>1</sup>Suprayitno, Putut Hadi. (2018). "Tinjauan Yuridis Penerapan Pidana Terhadap Pelaku Tindak Pidana Penyalahgunaan Narkoba di Kota Mojokerto." *ACTUAL*. 8 (2). 61-66.

who do not have enough income, he will try to steal, rob and carry out various other criminal acts.<sup>2</sup> Even to be able to realize its goals, the victims of drug users seemed to not care about how much cost to be incurred or how difficult it was to obtain the materials needed, this situation could occur because the need was no longer just a desire or secondary needs but has become a primary need.<sup>3</sup>

Excessive use or when it has reached the limit of addiction can paralyze the nervous system which results in the slow reaction and the most extreme can result in death. With consumers the most young generation, certainly fatal for the continuity of regeneration. The most worrying level is if a lost generation occurs (lost generation). This is what causes why drugs are seen as an important problem.<sup>4</sup>

From this description it is clear that a criminal law policy is needed that positions narcotics addicts as victims, not actors. Law Number 35 of 2009 concerning Narcotics has basically provided special capacity to abusers as victims and drug addicts, we can see in the provisions of Article 54, Article 55 and Article 103 of Law Number 35 of 2009, however in its implementation determine the capacity abusers as actors who are criminalized by abusers as victims are not as easy as to imagine, related to several things, the first is proof, the second understanding of law enforcement, this results in differences in attitudes in handling cases of narcotics abuse in criminal and some are rehabilitated, whereas in principle cases of position, the amount obtained is relatively almost the same.

If it refers to the revision of the Law on the Criminal Procedure Code (RUU KUHAP) which is being made by the law forming, then in (R-KUHAP) there is or is possible for the completion process outside the process in accordance with Article 42 paragraph (2) R-huds that read "The Public Prosecutor is also authorized to stop the prosecution for the public interest and/or for certain reasons". Basically this approach is known in Indonesian criminal law through Article 82 of the Criminal Code (the alignment of the authority to demand criminal and carrying out criminal). There is also the term "The Public Prosecutor May Decide Conditionally or Unconditionally to Make Prosecution to Court or Not." (The Public Prosecutor may determine or not demand to the court on condition or unconditionally ).<sup>5</sup>

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<sup>2</sup>Masri, Masri, Niko Fransisco, and Herman Fikri. (2021). "Rehabilitasi Terhadap Pelaku Penyalahgunaan Narkotika di Musi Banyuasin." *Disiplin: Majalah Civitas Akademika Sekolah Tinggi Ilmu Hukum sumpah Pemuda*. hlm 40-53.

<sup>3</sup>Parasian Simanungkalit. (2011). *Globalisasi Peredaran Narkoba Dan Penanggulangannya di Indonesia*. Jakarta: Yayasan Wajar Hidup. hlm. 12-13.

<sup>4</sup>*Ibid.*,

<sup>5</sup>Andi Hamzah. (2017). *Hukum Pidana Indonesia*. Jakarta: Sinar Grafika. hlm. 21.

Based on Article 54 of Law No. 35 of 2009 concerning Narcotics, regulates that narcotics addicts and victims of narcotics abuse are required to undergo medical rehabilitation. So that based on this article, a joint regulation on the handling of narcotics addicts and victims of narcotics abuse was issued into rehabilitation institutions issued by the Chairperson of the Supreme Court of the Republic of Indonesia, Minister of Law and Human Rights of the Republic of Indonesia, Minister of Health of the Republic of Indonesia, Attorney General of the Republic of Indonesia, Head of the State Police Republic of Indonesia, and Head of the National Narcotics Agency of the Republic of Indonesia. Article 127 of Law Number 35 Year 2009 concerning Narcotics also regulates narcotics criminal offenses committed by narcotics addicts and narcotics abusers.

In this study, the authors are interested in raising issues regarding the authority of the public prosecutor in handling authority to place narcotics addicts to the rehabilitation center as an alternative to criminalization, but given the direction of the judge's examination is limited by the indictment and then the burden of proof of the case is in the hands of the public prosecutor, the court's authority to Placing a addict to the rehabilitation center is clearly more or less dependent on the indictment and proof compiled by the public prosecutor. Furthermore, considering that the indictment is compiled based on the results of the investigation, the public prosecutor with the pre -prosecution authority can direct the direction of the investigation to prove the capacity of a abusers as a narcotics addict.

Narcotics crimes are not only dominated by men but also women as suspects. Where there are differences in handling between female perpetrators and male perpetrators. In handling male perpetrators, all legal actions are guided by the Criminal Procedure Code. While the handling of female perpetrators, besides being guided by the Criminal Procedure Code also referred to the National Police Chief Regulation (Perkap) No.8 of 2009 concerning the Implementation of Human Rights Principles and Standards in the Implementation of the Indonesian National Police duties.

The difference in handling can be seen from the handling of arrests, detention and examinations regulated in Perkap No. 8 of 2009, related to the obligations of officers in carrying out the examination of women in the Demak Police Station, where in 2017 there were 1 suspect, in 2018 there were 2 suspects. This number has risen again in 2019 there were 3 suspects. After the 2019 increase, the following year there was a decline. In 2020 there were 1 suspect and in 2021 and 2022 there were no suspects. For more details, the following data will be described by the Female Narcotics Criminal Act:

## DATA ON THE SUSPECT FEMALE TP NARCOTICS DEMAK POLICE 2017 - 2022

No	Year	Number of case
1	2017	1
2	2018	2
3	2019	3
4	2020	1
5	2021	-
6	2022	-

*Source:* Demak Reserse Police (2023)

From the data in the table, it can be seen that there is a female suspect permits which is a narcotics case in the Demak Police Station shows that the preventive measures are optimal, but on the other hand it is necessary appropriate, or because of special guidance/handling.

## 2. Method

The type of research used is empirical legal research (empirical/non-doktrinal juridical), which is the research used to analyze the laws seen as the behavior of people who have patterned in the lives of people who always interact and relate to social aspects.<sup>6</sup> In this description, data can be stated that will be used from the source can be seen on primary data and secondary data. Primary data is the main data in a legal study because of the tendency of the nature of legal research that is descriptive. This primary data is data obtained directly from the source, in this case it can be through the informant, namely the Demak Police Narcotics Headquarters: AKP Tri Cipto Adi Purnomo SH MH. Secondary data is data obtained from a source that has been collected by other parties, both through: Primary Legal Materials Materials derived from statutory regulations, secondary legal materials originating from several scientific works in the legal field such as books on legal issues of guarantee rights in Business law, scientific journals and so on as well as tertiary legal materials is an explanation material regarding secondary legal materials, in the form of the Big Indonesian Dictionary (KBBI), Legal Dictionary, Legal Terms, and so on.

The approach used in this study is the Law Approach and the Conceptual Approach approach.<sup>7</sup> Approach of Law that uses laws in analyzing criminal

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<sup>6</sup>Manotar Tampubolon, et al. (2023). *Sosiologi Hukum*. Padang: Global Eksekutif Teknologi. hlm. 43.

<sup>7</sup>Siregar, Fitri Yanni Dewi. (2020). "Aspek Hukum Penyederhanaan Perizinan Badan Usaha di Bidang Lingkungan Hidup dalam Undang-Undang Cipta Kerja." *Jurnal Ilmiah Penegakan Hukum* 7 (2). 184-192.

acts committed by women in the circulation of narcotics to create optimal law enforcement, as well as concept approaches that function to bring up objects that attract attention from the practical point of view and the angle of knowledge in the mind and certain attributes.

### **3. Results & Analysis**

#### **3.1. Results by The Research Data**

At the Demak Police Station, in handling male perpetrators, all legal actions are guided by the Criminal Procedure Code. While the handling of female perpetrators, besides being guided by the Criminal Procedure Code, is also guided by the National Police Chief Regulation (Perkap) No. 8 of 2009 concerning Implementation of Human Rights Principles and Standards in the Implementation of the Indonesian National Police Duties. The difference in treatment can be seen from the handling of arrest, detention and examination.<sup>8</sup> Where in Article 20 Perkap No.8 of 2009 stipulates that in the case that is captured is a woman, so a special treatment must be considered, among others:

1. As far as possible checked by female officers or gender -interested officers.
2. Checked in a special service room
3. Protection of privacy rights not to be published.
4. Right to get special treatment.
5. Separated the placement from the male suspect room
6. Application of special procedures for protection for women.

Furthermore, in carrying out acts of detention against women based on Article 26 Perkap No. 8 of 2009, the officers must consider:

1. Detained in a special detention room for women.
2. Separated the placement from the male suspect room
3. Protection of privacy rights not to be published.
4. The right to get protection and facilities regarding the reproductive rights of women.
5. Application of special procedures for protection for women.

In carrying out the action of examining women, based on Article 2 Perkap No. 8 of 2009, officers must consider:

1. Examined in a special room for women.
2. Protection of privacy rights not to be published.

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<sup>8</sup>Hasil wawancara dengan Kasat Narkoba Polres Demak: AKP Tri Cipto Adi Purnomo, S.H., M.H., on 19 Maret 2023.

3. Rights accompanied by social workers or experts other than legal advisors
4. Application of special procedures for protection for women.

In the construction of the Perkap, as described in the background that in the Demak Police Station, where in 2017 there were 1 suspect, in 2018 there were 2 suspects. This number has risen again in 2019 there were 3 suspects. After the 2019 increase, the following year there was a decline. In 2020 there were 1 suspect and in 2021 and 2022 there were no suspects.

No	Year	Number of Case	Suspect Initial	Article	Role
1	2017	1	RS	Primair Psl 197 Subsideir Psl 196 Lebih Subsideir Psl 198 UU No. 36 Th 2009 Ttg Health	Pengedar
2	2018	2	NL	Primair Psl 114 Ayat (1) Subsideir Psl 112 Ayat (1) UU No. 35 Th 2009, Ttg Narcotic	Kurir
			I Als MAE	Primair Psl 114 Ayat (1) Subsideir Psl 112 Ayat (1) UU No. 35 Th 2009, Ttg Narcotic	Kurir
3	2019	3	UAW	Primair Psl 197 Subsideir Psl 196 Lebih Subsideir Psl 198 UU No. 36 Th 2009, Ttg Health	Pengedar
			EDS	Primair Psl 132 Ayat (1) Jo Psl 114 Ayat (1) Subsideir Psl 131 UU No. 35 Th 2009, Ttg Narcotic	Kurir
			RUL	Primair Psl 114	Kurir

				Ayat (1) Subsideir Psl 112 Ayat (1) UU No. 35 Th 2009, Ttg Narcotic	
4	2020	1	MFANI	Primair Psl 132 Ayat (1) Jo Psl 114 Ayat (1) Subsideir Psl 127 Ayat (1) Huruf (A) UU No. 35 Th 2009, Ttg Narcotic	Pemakai
5	2021			-	
6	2022			-	

*Source: Demak Reserse Police (2023)*

From the data in the table, it can be seen that there is a female suspect permits which is a narcotics case in the Demak Police Station shows that the preventive measures are optimal, but on the other hand it is necessary appropriate, or because of special guidance/handling.

As an example of a criminal case committed by women in the distribution of narcotics that occurred last 2020 at the Demak Investigation Police, MFani. The suspect committed a criminal offense by living a boarding house with a close friend / girlfriend who is a narcotics dealer in Jeni Shabu named FR (in a separate case file / seplit), 27 years old, private, address Ds. BRAMBANG KENONGO RT.01 / 02 Kec. Karangawen Kab. Demak or boarding house in Ds. Kembangarum Kec. Mranggen Demak, then the suspect participated in abusing methamphetamine type narcotics along with FR and also once delivered or sent a methamphetamine narcotics package to the customer / buyer K (in a separate case file), 28 years old, private, DS address. BRAMBANG KENONGO RT.01 / 03 Kec. Karangawen Kab. Demak Atas Menuhan Fr.

### **3.2. Constraints faced in the process of implementing enforcement Electronic traffic Law Enforcement (ETLE) In the action of traffic violations in the jurisdiction of South Jakarta**

Narcotics crimes still occur in the jurisdiction of the Demak Police Station. Although the government is very concerned with the problem of narcotics abuse by making rules in the form of Law Number 35 Year 2009 concerning Narcotics in which there are types of death punishment, life imprisonment, maximum imprisonment of 20 years, imprisonment and a fine of hundreds of millions Up to billions of rupiah so that there is a fear of not being involved in



drug abuse, but there are still cases of drug abuse. In this day and age, narcotics abuse is not only looking at age and gender, where usually a man involved in narcotics crime, sadly a woman also participated in the narcotics crime. Where this case the author found in the jurisdiction of the Demak Police Station.

Based on data from the Demak Investigation Police (2023), the writer received data on the abuse of narcotics carried out by a woman as a courier in the last 2 (three) years, namely in 2018 and in 2019. There was even a woman as a dealer in 2017 and 2019. While a woman as a user was found in 2020. Furthermore, in 2021 and 2022 there were no female suspects in narcotics.

The existence of a female suspect who is a narcotics case at the Demak Police Station shows that preventive measures are optimal, but on the other hand it is necessary to analyze whether it has been optimally carried out by law enforcers and whether it special handling.

So that the Demak Police Station has carried out the right criminal law policy, which includes what actions should be used as criminal acts and what sanctions should be given to the violator. Broadly speaking, the policies carried out in the prevention of crime include:<sup>9</sup>

1. Planning or policy about what acts will be overcome because it is considered dangerous or harmful.
2. Planning or policy on what sanctions can be imposed on the perpetrators of prohibited acts (either in the form of criminal or action) and the system of implementing.
3. Planning or policy regarding the procedure or mechanism of the criminal justice system in the framework of the process of enforcing criminal law.

The concrete step of the Demak Police has also implemented a Restorative Justice (RJ), which is applied to the perpetrators of drug abuse who are categorized as victims of narcotics/drug abuse. As for the Restorative Process Justice can be done if:

1. Evidence is no more than 1 gram.
2. Not a repetition (recidivist)
3. Perpetrators do not include a network of drug trafficking.

The mechanism is as follows: The perpetrators are processed as usual, then the assessment is then submitted to the Kendal BNNK after it was concluded that the suspect was a victim of abusers and then a case was held specifically attended by religious leaders, community leaders and criminal experts. After it

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<sup>9</sup>Barda Nawawi Arief. (2008). *Beberapa Aspek Kebijakan Penegakan Dan Pengembangan Hukum Pidana*. Bandung: Citra Aditya Bakti. hlm. 24-23.



was agreed that the case was resolved by path outside the trial or restorative justice then the case in SP3 /was stopped. So that the Demak Regional Police have made an effort to overcome the problem of abuse and illicit trafficking of narcotics in accordance with the government's purpose in issuing Law Number 35 of 2009 concerning Narcotics.

Effective or not a law can look at the theory of the legal system according to Lawrence M. Friedman, there is a major element of the legal system (legal system), namely the legal structure (legal structure). In the theory of Lawrence M. Friedman this is called a structural system that determines whether or not the law can be carried out well. Legal Structure Based on Law No. 8 of 1981 includes: starting from the police, prosecutors, courts and criminal implementing bodies (prisons). The authority of law enforcement agencies is guaranteed by law. So that in carrying out their duties and responsibilities apart from the influence of government power and other influences. There is an adagium which states "Fiat Justitia et Pereat Mundus" even though this world collapses the law must be upheld. The law cannot run or be upright if there are no law enforcement officers who are credibility, competent and independent. How good is a legislation if it is not supported by a good law enforcement official, justice is only wishful thinking.

From the above theory one that influences the effectiveness or failure of the law is to look at the law enforcement officials. Where law enforcement against narcotics crimes committed by women as couriers in the Demak Police jurisdiction is carried out effectively. Law enforcement of narcotics crimes is carried out by preventive and repressive means.

First, starting from preventive measures (preventive) which are all efforts or actions that are to prevent a violation of the law through activities, among others, by conducting counseling and guidance carried out by the Narcotics Unit in collaboration with BNN and related agencies and the community, the activities of giving brochures conducted during narcotics counseling and development activities carried out, conduct supervision in places that are considered prone to misuse of narcotics, and conduct police operations by patrolling, raids in places that are considered prone to abuse of narcotics. Narcotics Directors conduct operations both routine and sudden operations. Routine operations are carried out every day, namely through supervision or observation in places that are prone to narcotics abuse.

After the preventive action was unsuccessful, a repressive action was taken, namely various efforts or actions carried out by certain law enforcement officials in accordance with the provisions of the applicable law in the event of a violation of the law. This repressive action is carried out by carrying out legal action, including investigation, investigation, prosecution and examination before the court hearing.

Repressive efforts are the core of the duties and authority of the police as law enforcers in their capacity as investigators. In handling the criminal offense of narcotics abuse, the police as investigators view the same as other criminal offenses. That is, in handling this criminal acts investigators also apply standard legal actions that are investigated, such as arrest, detention, search, seizure and so on in accordance with the applicable procedural law provisions.<sup>10</sup>

The police can also involve other people who want to work with the police in narcotics transactions. The targets used as a place of investigation are entertainment venues, hotels, inns and boarding houses that have been suspected of transactions or the use of narcotics.<sup>11</sup> If necessary, the Narcotics Law gives a greater role to the National Police investigator in order to overcome narcotics crime by giving authority to the National Police investigator to make wiretapping of talks by telephone or other communication tools that are allegedly discussing issues related to narcotics crimes. The action of tapping this telephone is only the authority of the National Police investigator, while for civil servant investigators the authority is not given.<sup>12</sup>

Based on the description above, the interview results were also found as for the efforts made by the Demak Police Station, were:

1. Preemptive:
  - a. In the form of an appeal not to be involved in drug abuse through the installation of stickers, banners and MMTs installed on the main road in the alley near the daughter boarding house.
  - b. Appeal Dangers of Drugs through Social Media and Radio Suara Kotawali Demak.
2. Preventive:
  - a. Carry out guidance, counseling, lecture the dangers of drugs in public high schools and equivalent in Demak Regency, especially in schools that have many students.
  - b. Carry out urine tests at cafes such as: Cafe Dewa Music, Cafe Alexis, New Metro Cafe, Neta Cafe, Music Crown, Selly Cafe in the Demak City and Wonosalam Demak Regency, with the main targets of karaoke guides.
  - c. Carry out raids at boarding houses, especially in women's boarding houses in the Demak Kota area, and other sub-districts in Demak Regency.

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<sup>10</sup>Kifli, Susiana. (2022). "Faktor Penyebab Perempuan Sering Dijadikan Kurir Dalam Transaksi Narkoba." *Varia Hukum*. 31 (40). 138-148.

<sup>11</sup>Tawang, C. M. (2015). "Penegakan Hukum Terhadap Pengedar Narkotika Dengan Berat Netto 36 Gram". *Jurnal Hukum Adigama*, Universitas Tarumanagara. 18.

<sup>12</sup>Lestari, I. (2017). "Penegakan Hukum Pidana Terhadap Pengguna Narkoba." *Jurnal Hukum Khaira Ummah*. 12 (3).

d. The formation of a shining village (clean drug) in Betokan Village, Demak District, Demak Regency, by forming a Working Group. The way it works is that when there are residents, especially teenagers who indicate alcohol and drugs, the Pokja team takes approaches and guidance so that the perpetrators are aware and do not repeat their actions and do not repeat their actions and do not repeat their actions and do not repeat their actions.

3. Repressive:

- a. The disclosure of drug abuse was followed by forced efforts in the form of arrest, body search and place, confiscation and detention to the perpetrators of drug abuse.
- b. The investigation process, the filing stage 1 until the results of the investigation were declared P21 by the prosecutor to phase 2, the surrender of the suspect and the evidence.

As according to the Demak Police Narcotics Unit, there is no special difference in the implementation of law enforcement against narcotics couriers both male and female, all of them are equated in law enforcement not because she is a woman. What distinguishes it is only prisoners or prisons. Women who commit acts of crime will be included in the female prison.<sup>13</sup> In addition, the difference in the implementation of law enforcement against women also lies in the search for limbs. Physical examination or search of limbs to female perpetrators is carried out by female police (Polwan) while men searches a member of the body by male police (Polki). This is one of the differences in physical examination between men and women during an examination by the police.

So that in terms of law enforcement in combating narcotics in which there are also cases of women as narcotics couriers namely law enforcement carried out by Demak Police in three parts, namely preemptive, is a prevention effort made early. Preventive, is a strategic effort and is a medium -term and long -term action plan, but must be seen as an urgent action to be carried out immediately, and repressive, is an effort to overcome law enforcement acts starting by the police intelligence in the investigation process which includes Reconnaissance, raising, and arrest to find users, dealers and narcotics dealers and their evidence. Then by disseminating narcotics laws and regulations, counseling about the dangers of narcotics abuse, giving moral encouragement to the community in order to create an alternative community livelihood in terms of community socio-economic development.

The next efforts made by collaborating with related agencies such as NGOs, government agencies, conducting cooperation with the community, conducting

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<sup>13</sup>Mulia, K. F. (2017). "Profil Wanita Penyalahguna Narkoba di Lembaga Pemasarakatan Kelas II A Pekanbaru". *JOM Fisip*. 4 (2).

routine raids for motorized vehicles on every border of the city, conducting routine unie raids and tests, installing billboards on the dangers of drugs, collaborating with institutions medical rehabilitation and social rehabilitation.

Efforts made to prevent narcotics abuse in Demak are always providing knowledge of knowledge for all Demak people about the dangers of narcotics, both complaints at school, both information on the roads, such as banners, so the community knows about the dangers of drugs. Then provide information to the public so that the public is aware of the dangers of drugs, because drugs can damage the psychology of the awareness, nation and state, then also damage the environment, counseling to schools, in once a month we do urine tests and provide knowledge to the community, provide socialization through the radio , television and magazines. Then pair the banners on the road, and conduct counseling to the villages.

#### **4. Conclusion**

Law enforcement against narcotics crimes committed by women in the jurisdiction of the Demak Police Station, first, is starting from preventive measures (preventive) and the second by repressive way if the preventive way is not successful which is the core of the duties and authority of the police as law enforcers as law enforcement In his capacity as an investigator. And there is no difference (all the same) law enforcement between abuse carried out by men or women, both dealers, dealers/couriers and users but the same treatment in terms of investigation. What distinguishes it is only during the search of a woman's body carried out by a female police (Polwan).

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