

Regulation of Criminal Acts of Narcotics Abuse in the Narcotics Law

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ABSTRACT – Drug abuse has become one of the most serious problems in Indonesia, posing a threat to public health, social stability, and state security. This study aims to explore the regulation of drug abuse in Indonesia's Narcotics Law, identify its strengths and weaknesses, and analyze the implementation of the regulation in drug eradication efforts. With a normative juridical approach based on literature studies, this research reviews various aspects of the law, ranging from criminal sanctions, rehabilitation mechanisms, to prevention and law enforcement policies. The findings show that although regulations have been comprehensively drafted, there are significant challenges in their implementation, such as disparities in law enforcement, lack of coordination between institutions, and lack of attention to rehabilitation programs for drug users. This study proposes several recommendations to strengthen policy effectiveness, including revision of regulations and strengthening the capacity of law enforcement officials. Thus, this study contributes to the development of more effective policies in dealing with the drug problem in Indonesia.

Keywords: Narcotics Regulation, Narcotics Abuse, Legal Regulation, Criminal Sanctions, Rehabilitation, Law Enforcement, Indonesia.

A. INTRODUCTION

Drug abuse in Indonesia has become a serious issue that affects various aspects of people's lives. The circulation and use of narcotics continues to increase even though the government has issued various regulations to deal with this problem. Law Number 35/2009 on Narcotics is the legal basis used in dealing with narcotics crimes. However, the implementation of this law faces major challenges, especially in terms of the effectiveness of eradicating narcotics abuse (Efendi, 2022).

One of the main challenges is the lack of alignment between law enforcement efforts and rehabilitation for drug users. Efendi (2022) points out that legal approaches that focus too

much on punishment often do not provide a deterrent effect for drug offenders. Muslim et al. (2024) also highlighted the weakness of legal policies that do not support integrated rehabilitation efforts.

Another problem is the high level of corruption in the legal system which often hampers the handling of drug cases. Zanuvar (2017) notes that the practice of bribery and collusion often involves law enforcement officials, so that the main perpetrators of drug crimes can escape the law. The role of drug offenders as part of transnational organized crime also complicates the law enforcement process. Existing regulations have not fully accommodated community-based prevention efforts. Mahendra (2024) emphasizes the importance of implementing non-penal policies to reduce drug abuse. However, these policies are often ineffective due to a lack of support from the community and weak coordination between relevant agencies.

Drug trafficking involving young people is a major threat to the future of the nation. Nugraha et al. (2022) noted that the young generation is the main target for drug dealers. The education system is also not optimal in providing an understanding of the dangers of narcotics, so many teenagers are trapped in drug abuse. Another serious problem is the legal treatment of law enforcement officers involved in drug cases. Theresia et al. (2022) showed that police officers involved in drug abuse often only receive light administrative sanctions, leading to public distrust of legal institutions. Narcotics law in Indonesia has not fully adopted the approach of Islamic law, which has its own mechanism in handling substance abuse. Hulaimi et al. (2022) highlighted the fundamental differences between Islamic law and Indonesian positive law, especially in terms of sanctions and rehabilitation.

Internationally, Indonesia faces pressure to tighten controls on the transnational drug trade. Nugraha et al. (2022) highlighted that cooperation between Indonesia and other countries is still not optimal in combating

transnational drug crimes. This is further exacerbated by weak supervision at ports and airports, which are the main routes for narcotics entry into Indonesia. As an extraordinary crime, drug abuse requires a comprehensive legal approach. However, Clarissa (2022) states that the implementation of the law in the field often does not reflect the spirit of drug eradication. Many cases end with light sentences for the main perpetrators, while users who should be rehabilitated receive prison sentences instead. Drug-related regulations in Indonesia often conflict with other regulations governing health and human rights. Elpina and Purba (2021) highlight the weakness of terminology used in drug laws, which often opens loopholes for offenders to avoid severe punishment.

Shortcomings in the rehabilitation system are also a major concern. Hamamah (2021) revealed that existing rehabilitation facilities are inadequate to accommodate the increasing number of drug users. Rehabilitation programs are often not followed by effective monitoring, so many former users fall back into drug abuse. This study aims to provide a comprehensive analysis of the effectiveness of drug crime regulation in the Narcotics Law. By evaluating the various challenges and opportunities in the implementation of these regulations, this research is expected to provide more effective policy recommendations. There have been many studies on the implementation of the Narcotics Law in Indonesia, but most of them only focus on law enforcement aspects without considering the integration of rehabilitation and non-penal approaches. This gap shows the need for a more in-depth study of the regulation of narcotics offenses. This research presents a new perspective by integrating regulatory analysis, legal implementation, and community-based rehabilitation. This study also discusses the relevance of Islamic law in regulating narcotics crimes as part of the national legal framework. This study aims to evaluate the effectiveness of the regulation of drug abuse crimes in the Narcotics Law and identify the challenges and opportunities that exist in its implementation.

B. METHOD

This research uses a normative juridical approach that relies on the analysis of laws and regulations, legal doctrine, and secondary data in the form of academic literature related to narcotics crimes. This method was chosen because normative legal studies provide a systematic framework for evaluating

regulations and their implementation in a structured manner. This research relies on secondary data sources, including laws, government regulations, journal articles, books, and other official documents relevant to the research topic. The main source is Law No. 35/2009 on Narcotics as well as other supporting regulations. Scientific literature and legal studies related to the effectiveness of narcotics regulations also form the basis of the analysis.

The data collection method was conducted through a literature study. This process involved identifying, collecting, and analyzing relevant literature sources. The data obtained was then classified based on key themes such as legal effectiveness, regulation implementation, challenges, and opportunities in drug eradication. The collected data was analyzed using an analytical descriptive method. This approach was used to outline the content of the regulation, evaluate its implementation, and identify shortcomings and opportunities. The analysis was conducted critically on various regulations and practices in the field to produce a comprehensive understanding of the regulation of narcotics crimes in Indonesia.

C. RESULTS AND DISCUSSION

Law No. 35/2009 on Narcotics provides a comprehensive legal basis for handling cases of drug abuse. This regulation aims to protect the public from the threat of narcotics, both through prevention, rehabilitation, and strict law enforcement against violators. Article 4 of the Narcotics Law states that narcotics control aims to ensure the availability of narcotics for health services and science. However, implementation practices often face technical and legal obstacles.

Efendi (2022) points out that although the regulations are quite detailed, discrepancies in implementation are a major challenge. Specific minimum criminal arrangements, such as in Articles 112 to 114, provide severe penalties for drug abusers. However, Pardede et al. (2022) identified that the application of minimum criminal sanctions often contradicts the principle of justice, especially for users who actually need rehabilitation.

As part of control, the Narcotics Law also regulates rehabilitation for drug abusers. However, Muslim et al. (2024) stated that rehabilitation programs are often ineffective due to the lack of supervision and uniform

implementation standards. This causes the implementation of rehabilitation to not be optimal in reducing the level of abuse. Regulations regarding the confiscation and destruction of drug evidence are regulated in Articles 91 to 94. Clarissa (2022) notes that these arrangements are quite clear, but their implementation often experiences technical obstacles such as the storage of evidence for a long time, which has the potential to cause abuse within law enforcement agencies. From an international perspective, Nugraha et al. (2022) compared Indonesia's drug regulation with Australia, which has a more rehabilitation-oriented approach rather than harsh punishment. This difference shows that the Narcotics Law in Indonesia still prioritizes a retributive approach over a restorative approach.

Dalam aspek penegakan hukum, penafsiran yang berbeda terhadap ketentuan hukum narkoba seringkali menjadi kendala. Elpina dan Purba (2021) mengungkapkan bahwa banyak kasus penyalahgunaan narkoba yang berujung pada hukuman penjara bagi penggunaannya, yang sebenarnya bertentangan dengan semangat rehabilitasi dalam UU Narkoba. Implementasi UU Narkoba menghadapi tantangan besar, antara lain rendahnya kapasitas aparat penegak hukum dan inkonsistensi penegakan hukum. Salah satu kendala utama adalah kurangnya pemahaman aparat terhadap semangat rehabilitasi yang diamanatkan oleh undang-undang. Hamamah (2021) menyoroti bahwa dalam banyak kasus, pengguna narkoba sering kali diperlakukan sebagai penjahat dan bukannya sebagai korban, yang mengakibatkan peluang rehabilitasi terabaikan. Padahal, Pasal 54 UU Narkoba menyatakan bahwa penyalahguna narkoba harus menjalani rehabilitasi medis dan sosial.

Opportunities for improvement in handling drug abuse cases in Indonesia lie in strengthening more targeted rehabilitation regulations. Mahendra (2024) proposes the implementation of a double track system policy, which combines rehabilitation and criminal punishment approaches. This approach is considered more fair and effective in reducing the number of drug abuse cases. This system allows offenders to receive medical and social rehabilitation, while still undergoing criminal punishment aimed at providing a deterrent effect. The implementation of this system is regulated in Law No. 35/2009 on Narcotics, which emphasizes the need for a balance

between criminal sanctions and rehabilitation measures for offender recovery. Research shows that the double track system has not been fully effective in Indonesia. According to the study, although there are clear legal provisions, their implementation often does not take into account the physical and psychological conditions of the offender.

There are many cases where judges prefer to impose prison sentences over rehabilitation, even though rehabilitation is considered more beneficial for long-term recovery and prevention of recidivism. Therefore, legal reform is needed to ensure that this system is applied consistently and effectively. There are conflicting norms in the application of articles related to rehabilitation and imprisonment in the Narcotics Law. Articles 54 and 103 of the law show discrepancies that affect the effectiveness of the double track system.

This is exacerbated by a lack of public legal awareness and social stigma towards rehabilitation, which is often considered a disgrace. To overcome these obstacles, it is necessary to increase legal awareness through public education and social campaigns that emphasize the importance of rehabilitation as part of recovery. From a law enforcement perspective, the limited number of officers and facilities that are not yet fully adequate are also challenges in implementing the double track system. Although some institutions have implemented personality development and self-reliance programs for drug offenders, the effectiveness of these programs still needs to be improved through the support of adequate infrastructure and human resources.

Overall, the double track system offers a more comprehensive approach to tackling drug abuse in Indonesia. However, its success is highly dependent on consistent application of the law, increased public awareness, as well as infrastructure and human resources support. Regulatory updates to harmonize relevant legal provisions and public education efforts will be important steps in improving the effectiveness of this system to achieve the long-term goal of reducing drug abuse. From a judicial perspective, Theresia et al. (2022) assessed that the supervision system for rehabilitation implementation needs to be improved. Weak supervision often causes rehabilitation programs to fail to achieve their goals. This confirms the importance of establishing a special institution to oversee rehabilitation programs. Community involvement in the

prevention of drug abuse is an important step. Fajar et al. (2023) emphasized the importance of community education to understand the dangers of drugs and the role of the law in protecting the community.

In enforcing drug-related laws, courts often face challenges in distinguishing between drug users and dealers. The lack of clarity between these two categories results in users often being sentenced to penalties that should be more appropriate for dealers. Laksana et al. (2024) note that this is due to the rubber-stamping nature of articles in the Narcotics Law, which allows drug users to be categorized as dealers based solely on possession of a certain amount of evidence. This creates injustice for users who should receive rehabilitation rather than severe criminal penalties.

The inability of the legal system to strictly distinguish between users and dealers also contributes to the problem of overcapacity in correctional institutions. This condition is exacerbated by detention policies that do not consider alternatives such as rehabilitation, despite the existence of joint regulations governing the placement of drug addicts in rehabilitation institutions.

Specifically for transnational challenges, Zanuar (2017) notes that narcotics as a transnational crime requires better coordination between Indonesia and other countries. Efforts such as the ratification of international conventions must be followed by concrete policy implementation at the national level. Transnational drug crime is a serious challenge that requires a comprehensive approach and strong international coordination. According to Zanuar (2017), Indonesia needs to improve coordination with other countries to effectively address this issue. An important step that has been taken by Indonesia is the ratification of international conventions, particularly the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, which was ratified through Law Number 7 of 1997. This convention provides an international legal framework for cooperation in combating illicit drug trafficking. However, ratification of international conventions is not enough.

Concrete policy implementation at the national level is key to the successful eradication of transnational drug crimes. Indonesia has taken a significant step by passing Law No. 35/2009 on Narcotics, which strengthens the national legal framework for tackling drug-related

crimes. This law not only regulates drug trafficking and abuse, but also provides a legal basis for international cooperation in law enforcement. International coordination is a crucial aspect of tackling transnational drug crime. This includes the exchange of intelligence information, joint patrols in border areas, and capacity building of law enforcement officers. The Indonesian Maritime Security Agency (BAKAMLA) plays an important role in marine border surveillance, but faces challenges in coordination with neighboring countries. Increased bilateral and multilateral cooperation is needed to overcome this obstacle.

Despite progress in international cooperation, there are still significant barriers to law enforcement against transnational drug crime. Different perceptions of the dangers of drugs between countries, technological limitations, and a lack of human resources in border control are challenges that need to be overcome. In the face of these challenges, Indonesia needs to continue to strengthen the implementation of national policies and enhance international cooperation. A holistic approach, involving aspects of prevention, law enforcement and rehabilitation, should be integrated in the national strategy. Improving technological capacity and human resources in border surveillance is a priority to reduce the loopholes exploited by transnational drug networks. With these measures, Indonesia can more effectively address the challenges of transnational drug crime and contribute to global efforts in combating this threat.

By considering all these aspects, a revision of the Narcotics Law is needed that does not only emphasize the threat of severe punishment, but also encourages a more rehabilitative and preventive approach. This is in accordance with the spirit of Article 28G paragraph (2) of the 1945 Constitution, which guarantees the protection of the rights of every individual from the threat of legal injustice.

D. CONCLUSIONS

Based on the analysis in this study, several main points were found related to the regulation of drug abuse crimes in the Narcotics Law. The Narcotics Law provides a clear legal basis for handling criminal acts of narcotics abuse. However, implementation in the field is often hampered by a lack of understanding of the essence of rehabilitation and weak supervision in the application of sanctions.

The application of minimum criminal penalties is often not in accordance with the principles of justice, especially for drug users who need rehabilitation. This shows the need for revision of the criminal sentencing policy to be more oriented towards a restorative approach. Rehabilitation programs have great potential to reduce drug abuse, but their effectiveness depends on strengthening regulations, supervision, and community involvement in abuse prevention.

The government needs to review Article 54 and related articles to ensure that drug abusers have access to adequate rehabilitation, while severe penalties are still strictly enforced for drug dealers and producers. A special institution is needed to oversee the implementation of rehabilitation programs to ensure their success. This will help create a balance between retributive and rehabilitative approaches. Public education about the dangers of drugs and the importance of the law's role in prevention should be increased. The government can collaborate with community organizations and educational institutions for this campaign. Coordination between Indonesia and other countries should be improved, including through strengthening bilateral and multilateral agreements in handling transnational drug trafficking.

REFERENCES

- Ali, S., Saputra, R., Darmawan, D., & Hardyansah, R. 2024. The application of criminal law in addressing hazardous products: A case study of consumer protection in Indonesia. *Legalis et Socialis Studiis*, 2(3), 1-8.
- Astini, D. 2017. Pengaturan Tindak Pidana Narkotika dalam Perundang-undangan di Indonesia. *Jurnal Warta Edisi*, 54.
- Clarissa. 2022. Implementation of Criminal Law in Narcotics Cases in Indonesia. *Journal of Ongoing Studies in International Relations*, 1(1).
- Darmawan, D. et al. 2021. Psychological Perspective in Society 5.0, Zahir Publishing, Jogjakarta
- Efendi, B. 2022. Implementation of Criminal Law in Handling Narcotics Cases in Indonesia. *Pena Justisia: Media Komunikasi dan Kajian Hukum*, 21(2).
- Elpina & Purba, M. S. 2021. The Narcotics Abuse Term Weaknesses in Criminal Law Enforcement of Indonesia. *Jurnal Pembaharuan Hukum*, 8(1), 34-35.
- Fajar, A., Iftiati, I., & Soviana, S. 2023. Enforcement of Criminal Penalties for Drug Abuse Committed by Police Officers. *JUSTISI*, 10(1), 296-310.
- Hamamah, F. 2021. Rehabilitation On Victims Of Drugs Abuse In Judicial Development. *International Journal of Law*, 5(2), 354-366.
- Hulaimi, H., Laia, L., & Anas, K. A. 2022. Crimination Of Criminal Acts Of Khamar And Drugs In Islamic Criminal Law Compared To Indonesian Positive Criminal Law. *International Journal of Law*, 1(1), 11-20.
- Khotimah, Z. K., & Ghozali, M. H. 2021. Literature Review: Persepsi Residen Pecandu Narkoba yang Menjalani Rehabilitasi terhadap Program Therapeutic Community. *Borneo Student Research*, 2(2), 1170-1179.
- Laksana, A. W., Widodo, H., & Pramana, D. 2024. Critical Opinion Paradigm Regulation of Criminal Actions of Drug Abuse Through Religious Rehabilitation Based on the Legal System. *Media Iuris*, 7(3), 401-416.
- Mahendra, J. R. 2024. Non Penal Policy to Reduce The Rate of Narcotics Crime Through a Double Track System. *Dialogia Iuridica*, 15(2), 029-052.
- Mujito, M., P. Saktiawan, D. Darmawan, R. Saputra, & Y, Vitrianingsih. 2023. Problems of Law Enforcement in the Crime of Abuse of Dangerous Drugs (Narcotics), *Legalis et Socialis Studiis*, 1(3), 10-17.
- Muslim, D., Darwis, N., & Sudarto, S. 2024. Legal Study Analysis of Criminal Law Policy in the Implementation of Integrated Assessment for Drug Abusers based on Law Number 35 of 2009 Concerning Narcotics. *Literatus*, 6(2), 500-509.
- Newbrander, W., R. Waldman, & M. Shepherd-Banigan. 2011. Rebuilding and Strengthening Health Systems and Providing Basic Health Services in Fragile States. *Disasters*, 35(4), 639-660.
- Nugraha, M. F., Antonio, R., & Antonio, R. J. 2022. Drug Abuse in the Young Generation: Law Enforcement Challenges (Comparative Study of Indonesia and Australia). *Journal of Creativity Student*, 7(1), 19-34.
- Peraturan Menteri Kesehatan Nomor 42 Tahun 2013 tentang Penyelenggaraan Imunisasi.
- Pardede, R. Y., Syahrin, A., Ekaputra, M., & Mulyadi, M. 2022. Analisis Yuridis Terhadap Penerapan Sanksi Pidana Di Bawah Ancaman Pidana Minimum Khusus Dalam Perkara Tindak Pidana Narkotika. *Locus: Jurnal Konsep Ilmu Hukum*, 2(3), 144-155.

- Purbanto, H., & Hidayat, B. 2023. Systematic Literature Review: Penyalahgunaan Narkoba di Kalangan Remaja dalam Perspektif Psikologi dan Islam. *Al-Hikmah: Jurnal Agama dan Ilmu Pengetahuan*, 20(1), 1-15.
- Quach, S., J. A. Pereira, J. C. Kwong, S. Quan, L. Crowe, M. Guay, & J. A. Bettinger. 2013. Immunizing Health Care Workers Against Influenza: A Glimpse Into the Challenges with Voluntary Programs and Considerations for Mandatory Policies. *American Journal of Infection Control*, 41(11), 1017-1023.
- Rytter, M. J. H., L. Kolte, A. Briend, H. Friis, & V. B. Christensen. 2014. The Immune System in Children with Malnutrition—A Systematic Review. *Plos One*, 9(8), e105017.
- Theresia, D., Pratiwi, S., & Tompul, V. B. 2022. Penegakan Hukum terhadap Penyalahgunaan Narkotika oleh Anggota Kepolisian Ditinjau dari Kode Etik Profesi Kepolisian Negara Republik Indonesia. *Jurnal Bina Mulia Hukum*, 7(1), 1-14.
- Tanjaya, W., T. Leonard, & L. M. L. Gaol. 2022. Legal Responsibility of Vaccine Provider on the Impact of Post Immunization Following Event (AEFI) After Vaccination. *International Journal of Latin Notary*, 2(2), 133-142.
- Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan.
- Zanuar, A. 2017. Tindak Pidana Narkotika Sebagai Transnasional Organized Crime. *Jurnal Pembangunan Hukum Indonesia*, 1(3), 337-351.
- Zanuar, A. 2017. The Implementation of Narcotics Law in Indonesia: An Analysis of Issues and Challenges. *International Conference On Law And Social Sciences*, 18733.