

LAW ENFORCEMENT IN COMBATING NARCOTICS AND DRUG CRIMES FROM A LEGAL CERTAINTY PERSPECTIVE

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ABSTRACT

Law enforcement against narcotics and illicit drug crimes is an integral part of the state's efforts to establish legal order and protect society. In this context, legal certainty is a fundamental principle that must be realized, both in the formulation of norms, the enforcement process, and decisions produced by law enforcement officials. The problems faced in this paper are how the policy of implementing criminal sanctions for drug users who are not linked to narcotics networks in current legislation, what forms of effective countermeasures against narcotics and illicit drug crimes and what model of law enforcement in countering narcotics and illicit drug crimes from the perspective of legal certainty. The research method used in this study is empirical legal research and this study will use analytical descriptive methods. The research findings indicate that criminalization policies for non-network drug users remain unclear and often open to multiple interpretations, despite Law No. 35 of 2009 providing opportunities for rehabilitation. This has led to criminalization that contradicts the principles of justice and human rights. Clear and integrative legal policies are needed, with a balanced approach between repressive, preventive, and rehabilitative measures. Regulations must clearly differentiate between users and network users, as mandated by Articles 54 and 103 of the Narcotics Law. Disharmonious regulations and differing interpretations by authorities contribute to legal uncertainty, necessitating consistent, fair, and human rights-based law enforcement.

Keywords: Law Enforcement, Combating Narcotics and Drug Crimes, Legal Certainty Perspective

INTRODUCTION

The illicit trafficking and abuse of narcotics and illicit drugs (narcotics) pose a serious threat to social order, national security, and the future of the nation's future generations. As a state governed by the rule of law (*rechtstaat*), Indonesia has a constitutional obligation to protect its citizens from the dangers of narcotics through effective and fair legal instruments that guarantee legal certainty for all parties involved. However, in practice, law enforcement against narcotics crimes in Indonesia still faces various fundamental problems, including inconsistencies in law enforcement and a lack of clarity in distinguishing between users and dealers.

Although Law Number 35 of 2009 concerning Narcotics explicitly regulates rehabilitative approaches for drug addicts and abuse victims, particularly through Articles 54 and 103, these norms are often not consistently enforced by law enforcement. Many non-networked drug users are still prosecuted criminally using repressive approaches, thus raising serious issues in the context of legal certainty, the principle of proportionality, and the protection of human rights.

Disharmony between legal regulations, differing interpretations among authorities, and weak coordination among law enforcement agencies (the police, prosecutors, courts, and the National Narcotics Agency) further impede the effectiveness of drug crime prevention in Indonesia. This situation not only leads to sentencing disparities but also creates a crisis of public trust in the criminal justice system. However, under the principle of a state based on the rule of law, criminal law must be enforced fairly, consistently, and in accordance with the principle of legality.

Thus, an in-depth study is needed on how law enforcement in narcotics cases operates from the perspective of legal certainty, as well as the extent to which current legal policies are able to ensure clarity of norms, consistency of application, and protection for those who should be rehabilitated, not criminalized. This research is crucial for promoting more humane, just, and long-term reform of narcotics criminal law in Indonesia.

Formulation of the Problem

Based on the description in the background section above, the formulation of the problem is:

- a. What are effective ways to combat narcotics and illicit drug crimes?
- b. What is the law enforcement model for combating narcotics and illicit drug crimes from a legal certainty perspective?

RESEARCH METHOD

Empirical legal research, meaning the author identifies laws (laws in the books) and then observes how well they are implemented in society, or uses field-based methods. This research will employ descriptive analytical methods. This qualitative research will further elaborate on the identification of laws and their effectiveness in drug crime cases. The legal data collection method used in this research was document study or library research. The approaches employed were statutory and case studies. The descriptive analysis method involved selecting data that reflected the actual situation in the field. The analysis employed deductive reasoning to draw specific conclusions from the research findings.

RESULT AND DISCUSSION

Effective Ways to Combat Narcotics and Illegal Drug Crimes

Combating narcotics and illicit drug (narcotics) crime is a major challenge facing many countries, including Indonesia. The narcotics problem encompasses not only legal dimensions but also public health, social, economic, and even national security aspects. Therefore, the approach used to combat narcotics crime must be comprehensive, integrative, and based on measurable effectiveness.

Effective countermeasures against drug crime cannot be achieved through repressive or punitive law enforcement alone. Relying solely on criminal penalties has been shown to fail to significantly reduce the prevalence of drug use. Therefore, a balanced combination of preventive, rehabilitative, and repressive approaches, based on scientific data and policy evaluations, is necessary.

a. Preventive approach

A preventive approach aims to prevent someone from starting to abuse drugs. This strategy includes public education, awareness campaigns about the dangers of drugs, improving the quality of education, and creating a healthy social environment. Institutions such as the National Narcotics Agency (BNN) actively implement prevention programs through outreach in schools, universities, workplaces, and community-based communities.

The effectiveness of this approach depends heavily on the synergy between the government, families, educational institutions, and the mass media in disseminating anti-drug values. Prevention initiated early has been proven to reduce the potential for individuals to become drug users.

b. Rehabilitative Approach

Drug addicts or victims of drug abuse should not be immediately criminalized, but rather should be viewed as individuals in need of medical and social assistance. Rehabilitative approaches are aimed at restoring the physical and mental health of addicts, as well as their social reintegration into society.

In this context, rehabilitation includes two main forms, namely:

a. Medical rehabilitation, conducted by healthcare professionals to address substance dependence;

b. Social rehabilitation, aimed at restoring addicts' social function so they can return to their role in society.

Based on Article 54 of the Narcotics Law, the state has recognized the importance of this approach by mandating rehabilitation for addicts and victims of drug abuse. Rehabilitation can be carried out either voluntarily or by court order, through the Integrated Assessment Team (TAT) mechanism.

c. A measured repressive approach

Law enforcement remains necessary, especially against perpetrators involved in illicit drug trafficking networks. However, a repressive approach must be measured and selective. Drug dealers, drug lords, and producers are the main actors destroying the country's social and economic structure. Therefore, they must be subject to severe penalties, including confiscation of assets derived from drug crimes.

d. Inter-agency Collaboration and a Multisectoral Approach

The effectiveness of drug control efforts depends heavily on cross-sectoral collaboration, including government agencies (BNN, Polri, Prosecutor's Office, Ministry of Health, Ministry of Social Affairs), NGOs, educational institutions, religious leaders, and community participation. This multisectoral approach allows for the involvement of all parties in the prevention, rehabilitation, and reintegration of drug abuse victims.

In general, the effects of drug abuse can be categorized into two groups, as shown above:

a. Abuse can cause specific impacts; for example, in the case of marijuana, these impacts can include medical symptoms such as pneumonia and shortness of breath, as well as cancer, and psychological symptoms including sadness, aggression, excessive excitement, hallucinations, memory loss, cognitive impairment, and social isolation.

b. Abuse has social and national implications beyond the impact on individuals, families, and parents.

Some of the physical effects include poisoning and damage to the brain, heart, lungs, liver, kidneys, and reproductive organs; others include psychological effects such as increased anxiety, restlessness, fear, suspicion, hypervigilance, aggression, and memory impairment. Because drug purchases are so expensive, they can drain parents' bank accounts, tear families apart, and cause tremendous emotional and social stress for everyone involved. The decline in the quality of human resources, the increased financial pressure on the state to combat the drug threat, and, of course, the disruption to social and national security are all impacts felt by society and the country as a whole. To implement

Presidential Instruction Number 2 of 2020, which relates to the National Action Plan for the Prevention, Eradication, Abuse, and Illicit Trafficking of Narcotics (P4GN) 2020–2024, the National Narcotics Agency (BNN) must take strategic steps to combat drug abuse. These steps include:

Encourage the involvement of relevant institutions, educational institutions, and community groups; a. Provide early education to children and the community about the dangers of drug abuse; b. Strengthen interventions to help families recover from addiction; c. Displace drug abuse from high-risk locations by implementing interventions;

- a. Improve the quality of human resources involved in rehabilitation;
- b. Strengthen and expand collaborative networks for drug prevention and eradication at the national, international, and domestic levels;
- c. Improve the provision of rehabilitation services through community-based interventions;
- d. Ensure rehabilitation services meet national quality standards.

Efforts to combat drug abuse must be holistic and multifaceted, encompassing not only prevention but also punishment, treatment, and rehabilitation. Promotional and preventive efforts are the most effective and fundamental approach to ending drug abuse; repressive efforts are the most realistic and practical; and curative and rehabilitative efforts are the most compassionate. The methods are as follows:

a. **Promotional**

Mentoring programs or prevention programs are general terms used to describe these initiatives. Community members who have never used drugs or are completely unfamiliar with them are the ones who will receive guidance in these programs. The main premise of these programs is to encourage people to engage and participate in more community activities so they can achieve true well-being and never consider using drugs simply for the thrill. Study groups, sports groups, arts and culture groups, and business groups are just a few examples of the many types of programs available, which involve instruction and participatory conversations. Community organizations facilitated and supervised by the government are the best implementers of these programs.

b. **Preventive**

Another name for this program is "prevention," and its goal is to educate drug-free communities about the dangers of drug abuse so that its members will never want to try or abuse drugs. The government runs this program, but it works much better with the support of other institutions, such as institutions that handle related professions, NGOs, associations, community groups, and so on. The actions and goals of this prevention program include anti-drug abuse campaigns, drug education and counseling, peer group training and education, and management of drug production and distribution in the community.

c. **Curative**

These programs, also called treatment programs, target people who use drugs. The goals of these programs include reducing drug abuse and dependence, treating illnesses caused by drug use, and caring for those suffering from these conditions. Doctors who have completed specialized training in the treatment of substance use disorders are the only ones legally authorized to treat and treat patients with these conditions. Patience is essential during this therapy, as it is complex. Effective collaboration between healthcare providers, patients, and their loved ones is crucial to achieving treatment goals. These treatment programs address a wide range of issues, including but not limited to: immediate withdrawal, detoxification (the process of removing harmful substances from the body), organ damage (due to drug use), and other diseases that can be transmitted through drug use, such as HIV/AIDS, hepatitis B/C, syphilis, and others.

d. **Rehabilitative**

Patients who have previously participated in substance abuse treatment programs are the focus of this initiative, which aims to improve their psychological and physiological well-being. We want those who have used drugs in the past to finally kick the habit and recover from the diseases that have ravaged their bodies. People who use drugs are more likely to suffer from mental illness, physical impairment, and hereditary infections like HIV/AIDS. This is why it's never a good idea to seek drug treatment outside of a recovery program.

e. **Repressive**

Drug traffickers, including producers, wholesalers, and consumers, will be subject to legal prosecution under this program. Government authorities are obligated to monitor and regulate the distribution or manufacture of drugs through this program. Furthermore, this program takes the form of action against drug users who violate the law. The police, health, the Food and Drug Monitoring Agency (BPOM), Customs and Excise, Immigration, the Prosecutor's Office, and the Courts are among the agencies involved in this initiative. It is hoped that members of the public, particularly non-governmental organizations (NGOs) and other community groups, will assist relevant law enforcement agencies in combating the rampant illegal drug trade. Everyone in society must play a role, even if it is simply reporting suspicious drug-related behavior. Police can encourage community involvement by spreading the word and encouraging the public to report drug use to the authorities. Everyone, from parents and educators to community and religious leaders, as well as youth organizations and non-governmental organizations (NGOs), plays a crucial role in combating drug abuse.

Apart from the 5 (five) methods mentioned above, prevention efforts can also be carried out by:

a. Primary prevention

People who are unfamiliar with drugs and community resources that can help prevent drug use are the targets of this prevention effort. Counseling about drug risks, dissemination of information through various media, and education about the risks of drugs are part of this drug abuse prevention effort.

b. Secondary prevention

People who are trying to stop drug abuse and community resources that can help them are the targets of this prevention effort. As part of this initiative to reduce drug abuse, we conduct home visits to screen children who may be abusing drugs, provide them with counseling and social guidance, and teach them life skills such as effective communication, self-control, and decision-making.

c. Tertiary prevention

Addicts and former users, as well as community resources that can help them quit and those who have been victims of substance abuse, are the targets of these prevention efforts. Activities included in these preventive efforts include providing social assistance and counseling to families of drug users and the community around them, as well as providing assistance to former users to stay sober.

Indonesia's legal system has taken positive steps to address drug abuse from a health perspective by focusing on rehabilitation. Inadequate rehabilitation facilities and weak oversight of offenders undergoing rehabilitation procedures are two obstacles to widespread drug use. Another issue of concern is that not enough people are informed of their rights or have access to effective rehabilitation programs, leading to a disproportionate number of drug users being imprisoned. The goal of this policy is to reduce the harmful impact of drugs on society, and it represents a shift from a purely punitive strategy to a more restorative and preventative one. To better understand how drug offenses are handled and eradicated, we spoke with Mr. Anggoro W., S.H., M.H., Head of the Narcotics Investigation Unit of the Tanjung Priok Port Police. According to him, there are three main approaches the police use to address drug offenses, particularly those committed by the Tanjung Priok Port Police:

a. Form of Preemptive Response

In efforts to combat drug abuse, the National Police Narcotics Unit must implement various strategies, one of which is a preemptive approach. Preventive efforts include various educational initiatives aimed at eradicating correlative variables and criminogenic causal factors that can lead to crime. One of the main goals is to realize and promote behavior and a standard of living free from ecstasy and other drugs. To help stop the drug abuse epidemic from worsening, several organizations aim to educate those who have never used drugs before about the risks they pose.

b. Form of management with a preventive approach

When police use preventative measures, the goal is to stop community activities before they escalate into actual disturbances. This preventative measure is implemented by proactively avoiding situations that could escalate into social problems and criminal behavior. The police's Sabhara (Police Operations Unit) and Intelligence Unit are responsible for effectively preventing crime. Preventing criminal activity that threatens public order and security is the primary objective of the various police functions in this area. The Sabhara function, for example, patrols high-crime areas, while the intelligence function investigates potential criminal plots.

c. Form of countermeasures with a repressive approach

The purpose of repressive measures by the Indonesian police is to punish lawbreakers and uphold justice. If preventive and enforcement measures are ineffective, repressive measures will be taken. Police will take repressive action if public actions disrupt public order and endanger the safety of others.

Therefore, anti-drug initiatives must be holistic and multifaceted, encompassing prevention, enforcement, and early intervention. The most effective and fundamental strategy for combating drug abuse is one that takes a preventative approach, while the most realistic and tangible strategy is to implement strict penalties. On the other hand, prevention strategies are sometimes referred to as such. Their goal is to educate healthy individuals who are not yet familiar with drugs about all the details of these substances in the hope that they will be less tempted to abuse them.

The government can implement this strategy not only but also enhance it with the support of other institutions, such as associations, community groups, non-profit organizations, and related professional organizations. Anti-drug abuse campaigns, drug education and counseling, peer group training and education, and initiatives to control drug production and distribution in the community are all part of this prevention program's objectives.

Instead, a multi-pronged strategy encompassing law enforcement, rehabilitation, prevention, and cross-sector collaboration is needed to address drug offenses and illicit drugs. To further clarify matters, here's an explanation: One crucial aspect of Indonesia's criminal justice system is the pursuit and prosecution of those responsible for drug-related offenses. This definition of law enforcement encompasses the steps of investigation, examination, prosecution, and sentencing. Nevertheless, the rule of law and human rights must be upheld in the implementation of law enforcement. Ensuring the state does not abuse its authority in combating drugs is why this is so crucial.

A number of coordinated initiatives, rather than relying on a single strategy, will determine how successful this response will be. Here are some examples of efficient response techniques:

a. Firm and Measured Law Enforcement

b. Rehabilitation for Drug Users

- c. Prevention through Education and Socialization
- d. Public Health Approach
- e. Inter-Agency and International Collaboration
- f. Strengthening Regulations and Policies
- g. Economic and Social Empowerment

Effectively combating drug crime requires a multifaceted approach, ranging from strong law enforcement, appropriate rehabilitation, prevention through education, and international cooperation. The combination of fair legal policies, health approaches, and socio-economic empowerment will create a more comprehensive and sustainable countermeasure system.

The essence of effective countermeasures against drug and illicit drug crime is: A holistic and balanced approach that integrates preventive, rehabilitative, and repressive (law enforcement) efforts proportionally, clearly distinguishing between addicts/abusers and dealers/illicit drug trafficking networks, and involving cross-sector collaboration to achieve sustainable results. This approach aims to reduce the demand and circulation of drugs, safeguard the human rights of users as victims, and prevent overcriminalization and prison overcrowding.

Based on an analysis of current legal policies, it can be concluded that the approach to combating drug crimes is still too dominated by a repressive paradigm, with a primary focus on punishment. Although regulations accommodate a rehabilitative approach, as stipulated in Articles 54 and 103 of Law Number 35 of 2009 concerning Narcotics, its implementation has not been optimal due to weak derivative regulations and inconsistent enforcement by law enforcement officials. As a result, the criminal justice system still tends to position drug users as criminals, rather than as subjects in need of medical and social rehabilitation.

Effective countermeasures must reflect the principle of substantive justice, taking into account the social, psychological, and health backgrounds of perpetrators, particularly drug users and addicts. The state is required to prioritize not only control through criminal sanctions but also to develop a legal system oriented towards social rescue and reintegration through an interdisciplinary approach. Therefore, this analysis confirms that the effectiveness of combating narcotics crimes does not lie in the number of criminal sentences, but in the success of creating a legal mechanism that is able to balance between community protection and individual recovery in a fair, proportional, and sustainable manner.

Law Enforcement Model in Handling Narcotics and Illegal Drug Crimes from the Perspective of Legal Certainty

The discussion on the ideal model of law enforcement from the perspective of legal certainty aims to formulate a policy framework that is not only repressive towards perpetrators of narcotics crimes, but also progressive and solution-oriented towards victims of abuse, in order to realize a legal system that is just, humanistic, and in accordance with the principles of a state based on the rule of law.

The ideal model for law enforcement in combating narcotics and illicit drug crimes must consider three main pillars: legal certainty, justice, and expediency. From a legal certainty perspective, the ideal model must ensure clear regulations, consistent application, and transparent and accountable implementation.

The following are key elements of the ideal model for law enforcement in combating narcotics crimes, prioritizing legal certainty:

- a. Comprehensive Regulatory Certainty and Rules
- b. Transparent and Accountable Law Enforcement Process
- c. Fairness in Sanction Imposition
- d. Integration of Rehabilitation as Part of the Legal System
- e. Prompt and Effective Handling of Narcotics Cases
- f. Strong International Cooperation
- g. Protection of Human Rights
- h. Legal Education and Socialization

The ideal model for law enforcement against narcotics crimes in Indonesia can be realized by:

- a. Imposing firm and harsh penalties, such as imprisonment, life imprisonment, and even the death penalty.
- b. Regulating narcotics crimes separately under Articles 609 to 611 of the National Criminal Code.
- c. Regulating narcotics-related acts, such as importing, exporting, producing, cultivating, storing, distributing, and using narcotics.
- d. Utilizing the role of the National Narcotics Agency (BNN), a non-ministerial government agency dedicated to the prevention and eradication of narcotics abuse.

The ideal model for law enforcement in combating drug crimes must ensure consistent, transparent, and just legal certainty. This legal certainty must be reflected in clear regulations, the application of proportionate sanctions, a focus on rehabilitation for users, and the protection of human rights. Furthermore, cross-sectoral and international cooperation, as well as expedited legal processes, are key to ensuring an effective and fair legal system in addressing drug crimes.

CONCLUSIONS AND SUGGESTIONS

a. Conclusion

Based on the description above, the following conclusions can be drawn:

Effective drug crime prevention requires strengthening the law enforcement system, optimizing the role of rehabilitation, and encouraging synergy between agencies such as the National Narcotics Agency (BNN), law enforcement officials, and the Ministry of Health. Regulations also need to differentiate legal treatment between distribution networks and users or addicts, as stipulated in Articles 54 and 103 of Law No. 35 of 2009. The approach used must be multidisciplinary, uphold substantive justice and human rights, and supported by an adaptive and long-term legal system.

The law enforcement model for narcotics cases still faces conceptual and practical obstacles, such as inconsistent implementation, disparities in legal treatment, and regulatory disharmony. This creates legal uncertainty and undermines the principle of justice. A consistent, transparent law enforcement model is needed that clearly differentiates between traffickers and users in need of rehabilitation. Legal certainty must be achieved through fair, predictable legal practices that align with the principles of legality and human rights protection.

b. Suggestions

The suggestions that researchers can convey in this writing are:

Effective drug control requires an integration of repressive, preventive, and rehabilitative approaches, with a clear distinction between traffickers and users as victims. Implementing regulations need to be strengthened, the professionalism of law enforcement agencies increased, and rehabilitation made a primary focus. The state also needs to consider establishing drug courts and strengthening inter-agency coordination.

To ensure legal certainty, reforms to drug court regulations and practices are needed to be firm, consistent, and predictive. There must be a clear distinction between dealers and users who need rehabilitation, as well as national technical guidelines to harmonize the legal process. Law enforcement officers need to be trained in corrective and restorative approaches, and the state can establish specialized courts such as drug courts to ensure substantive justice for addicts.

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