

Print Legal Regulations on Preventive Policies in Handling Narcotics Crimes

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Abstract. *Drug abuse is a serious problem that has a negative impact on individuals, families, and society. Combating drug crimes in Indonesia requires not only a repressive approach, but also effective preventive policies based on the rule of law. This study aims to analyze the legal rules underlying preventive policies in combating drug crimes, with a focus on the effectiveness of implementation and the obstacles faced in the field. This study uses a normative legal method, which analyzes laws and regulations such as Law Number 35 of 2009 concerning Narcotics, Regulation of the Chief of Police No. 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice, and Attorney General's Guidelines No. 18 of 2021 concerning Settlement of Narcotics Crime Cases Through Rehabilitation. The results of the study indicate that preventive policies have an important role in preventing drug abuse, especially through education, socialization, and cross-sectoral cooperation. However, the implementation of this policy is often hampered by weak coordination between institutions, limited resources, and low public awareness. Therefore, preventive policies supported by strong legal regulations and effective implementation can be a significant strategy in overcoming drug crimes. This study recommends the need for evaluation and improvement of regulations, increasing the capacity of implementers in the field, and strengthening community participation to create a safer environment free from the threat of drugs.*

Keywords: *Law, Preventive Policy, Narcotics, Indonesian Police, Indonesian Attorney General*

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INTRODUCTION

Law is a part of the rules that are mandatory and contain commands and prohibitions used to limit the permissible or impermissible actions of its citizens. More narrowly, the law is made to create order. Basically, the law is made to reduce the room for movement of its citizens, whether they have the status of officials or citizens (Mastrofski et al., 2000), both have limits in the treatment of actions they take so that the hopes called common interests can be realized, namely justice and welfare. Discussing the law, of course, cannot be separated from what is called fairness or justice (Sen, 2008; Petrilli, 2016; Kianzad, 2024). This is after becoming an inevitability (*conditio sine quanon*) that in the law it is mandatory to contain and guarantee justice.

According to Yusuf (2015) in his writing entitled *Hukum dan Keadilan* (Law and Justice), the law cannot be separated from the ultimate goal of living in a state and society itself, namely justice (*rechtvaardigheid* or justice). Through the law, individuals or society can live a just life. Habermas further explained that fair law is a part of the law that is arranged and does not oppress the human dignity of citizens (Habermas, 1998), or in other words that the law always serves justice, order, regularity, and peace in order to support the realization of a prosperous society physically and mentally.

As explained by Yusuf, it is interesting, this is because the perspective of fair law is not only limited to the realization of physical welfare but also spiritually. The question then is what kind of justice will support the realization of a prosperous society physically and mentally? In answering this question, of course, the thing that must be understood is the benefits of justice itself. Kelsen (1973) assumes that the meaning of justice is not easy. Because justice is defined in various ways, this is because of its abstract nature, loaded and its meaning is very much and not easy to understand. This justice is widely interpreted by classical thinkers who originate from the thoughts of Greek philosophers to European thinkers from the middle-ages to the 20th century.

Aristotle in Bertens stated that justice can be interpreted as giving someone what is his right (due) or something that belongs to him (Ankersmit, 1989; Kymlicka & Norman, 1994; Zuhdi, 2021). In fact, the law has a purpose in guaranteeing justice, no more than merely procedural and not the original justice (Tyler & Allan Lind, 2002; Schaefer, 2007), the original justice is very substantial like the purpose of the rule of law that was established. Indonesia, for example, justice for all Indonesian people, which is one of the factors of the purpose of the rule of law, is still only stated in the Pancasila and the Constitution (Taher, 2021; Fikri & Hasudungan, 2022 Fathoni & Vasalo, 2023).

Furthermore, the law that should be able to uphold justice, still belongs to an individual or group. It is very ironic, if the law is not just, then it is impossible for welfare to be realized. If guided by justice, the state of Indonesia has met the requirements as a state of law. However, it is only limited to rhetoric and written rules. In fact, it is still too far to say that Indonesia is a state of law (Lev, 2017; Buehler, 2011; Juanda & Juanda, 2023). Because, the rule of law aims not to uphold justice in terms of procedure alone, but it can be proven with certainty the purpose of the birth of a law which is a tool for establishing justice so that it can be carried out by every citizen (Haggard et al., 2008; Benvenisti, 2008; Humairoh et al., 2024).

Indonesia is a country rich in natural resources and human resources, but many Indonesian people are affected by poverty in their life needs (Kurniawan & Managi, 2018; Hasan, 2021; Hill, 2021). With the impact of this poverty, the source for being able to commit crimes can emerge. People who cannot meet basic living needs or standard income scales are called economically weak people. In such situations, they are vulnerable to illegal drug trafficking which then develops into drug crimes. In addition, wrong views combined with a supportive environment make economically weak or poor people more vulnerable to drug abuse. Drugs are usually used by economically weak people unknowingly to increase energy. because of the addictive effects caused by continuous drug use. Because they do not have enough money, people in poor economic groups start committing new crimes, such as stealing or becoming couriers for drug dealers to meet their living needs and satisfy their desire to consume drugs. Drug abuse is one of the most pressing problems in many countries, including Indonesia. Crimes related to drugs not only damage individual morals, but also have a wide negative impact on families, communities, and the nation.

Based on data from the National Narcotics Agency (BNN), the prevalence of drug abuse continues to increase every year, especially among the younger generation, who should be the backbone of national development. This shows that efforts to combat drug crimes have not been fully effective. The increase in the prevalence of drug abuse shows the need for more holistic and integrated strategic steps to overcome this problem. Law enforcement efforts that have been carried out so far, such as arrests and sanctions against perpetrators, have not been able to provide a significant deterrent effect. Therefore, a preventive approach is one of the urgent solutions to be implemented, not only through strengthening regulations, but also by encouraging active participation from various elements of society.

This approach includes comprehensive education about the dangers of narcotics, stricter supervision at the family and community levels, and increased collaboration between law enforcement agencies, the government, and educational institutions. Thus, preventive measures are expected to be able to reduce the number of narcotics abuse while strengthening social

resilience to the threat. As part of efforts to combat this problem, the government has adopted various preventive policies through legal, educational, and rehabilitation approaches. These preventive policies aim to reduce the level of narcotics abuse by preventing potential criminal acts before they occur.

For example, Law Number 35 of 2009 concerning Narcotics regulates the prevention and eradication of narcotics abuse through cross-sectoral cooperation, such as education and socialization in schools, families, and communities. However, the effectiveness of this policy is often questioned, especially in terms of its implementation in the field which is hampered by a lack of coordination, budget, and public awareness. The lack of effectiveness in the implementation of these preventive policies indicates an urgent need for an in-depth evaluation of the underlying legal framework. Although Law Number 35 of 2009 has provided a foundation for preventive efforts, its implementation in the field is often hampered by weak synergy between government agencies, law enforcement, and the community.

In addition, the minimal allocation of resources, both in the form of budget and experts, also complicates the sustainability of prevention programs. On the other hand, the lack of public understanding of the dangers of narcotics and low participation in socialization programs are factors that worsen the situation. Therefore, a more comprehensive approach is needed, starting from improving regulations, increasing the capacity of implementers in the field, to strengthening public awareness and involvement in supporting existing preventive policies. Furthermore, the preventive policy is inseparable from the underlying legal framework. Legal rules play an important role in determining the extent to which preventive measures can be implemented, both by law enforcement officers, educational institutions, and the wider community.

In this context, it is necessary to analyze how the current legal rules are able to answer the challenges of overcoming narcotics crimes through preventive measures. Are these rules comprehensive and implementable enough? Are there any legal loopholes that actually complicate handling? These problems encourage the urgency of this research to explore the legal rules underlying preventive policies in overcoming narcotics crimes. This research aims to provide a comprehensive picture of the effectiveness of these preventive policies, with a focus on the aspects of legality, implementation, and obstacles faced. Thus, the results of this study are expected to contribute to strengthening preventive policies based on law, so as to reduce the negative impacts of drug abuse in society.

METHODS

In this thesis research, the type of research that will be used is normative legal research. Normative legal research was chosen because this approach allows researchers to analyze applicable legal regulations, both in terms of legislation and relevant legal principles. With this approach, the research will focus on studying the regulations that underlie preventive policies in dealing with narcotics crimes, such as Law Number 35 of 2009 concerning Narcotics and other related regulations. In addition, this research will also review how these legal regulations are implemented in practice and whether there is a gap between existing legal norms and the reality of their implementation. Through this analysis, it is hoped that the research can provide a comprehensive picture of the effectiveness of the legal framework in supporting preventive policies while providing recommendations for improving existing regulations. Normative legal research consists of: (1) Examining legal principles; (2) Examining the legal system; (3) Examining the level of vertical and horizontal synchronization; (4) Examining comparative law; (5) Researching the history of law. The type of normative legal research is a type of research that is guided by legal norms in which there are statutory regulations.

The type of normative legal research discusses a doctrine or principle that includes legal science. In this thesis research, the location of the research was carried out at the North Sumatra Regional Police located at Jalan Jl. Sisingamangaraja Km.10.5, Medan City, North Sumatra. In normative legal research, it has the nature of descriptive analytical research, where the purpose of descriptive analysis is that a study can obtain a detailed and systematic picture related to the

problems to be studied. The analysis is carried out based on the description, facts obtained and will be carried out carefully how to answer the problem in concluding a solution as an answer to the problem. Respondents or informants in this study refer to someone who is used as a tool to explain the core of the research or answers to observations in this study.

The subject of the study is non-penal policies in dealing with narcotics crimes. Related to the research to be carried out, informants who are input for information must have certain characteristics so that the discussion of the problem being sought can find a way out of the problem. In the process of digging up information by an informant, of course the quality of the data obtained depends on the personal quality of the informant himself, because that will determine the suitability of the data. Here are some criteria for informants in this study: (1) Physically and mentally healthy; (2) Have insight into the problems to be discussed; (3) Have experience related to the problems to be discussed; (4) Readiness to become a research informant; (5) Participants are investigators from the North Sumatra Regional Police. In analyzing these regulations, this study will use a comparative approach, namely comparing legal policies in Indonesia with policies implemented in other countries facing similar problems. The aim is to evaluate the effectiveness of preventive policies implemented in Indonesia and to provide recommendations regarding improvements or adjustments to better legal policies.

Overall, this normative legal research method focuses on the study of written legal theories and norms, as well as the application of legal norms in the practice of preventive policies for combating narcotics crimes. Through this analysis, it is hoped that a deeper understanding of existing legal policies can be found, as well as contributing to the improvement of more effective policies in combating narcotics crimes in Indonesia.

RESULTS AND DISCUSSION

Regulation of the Chief of Police No. 8 of 2021 concerning Handling of Criminal Offenses Based on Restorative Justice

In addition, the backlog of cases in courts and correctional institutions that are overcapacity is a serious challenge in the Indonesian criminal justice system. This condition shows the need for alternative resolution of cases that are more efficient and effective, especially for minor crimes that do not require a long and complex legal process. The restorative justice approach is one solution that is considered capable of overcoming this problem. Restorative justice emphasizes conflict resolution through deliberation, dialogue, and mediation between perpetrators, victims, and affected communities. This approach is in line with local wisdom values in Indonesia that prioritize conflict resolution through deliberation and consensus. By adopting this concept, the National Police seeks to provide an alternative case resolution that is more oriented towards restoring relationships and creating social harmony.

The Issuance of the Chief of Police Regulation No. 8 of 2021 also reflects the commitment of the National Police institution to carry out law enforcement duties in line with the principles of justice, legal certainty, and legal benefits, as mandated in Law No. 2 of 2002 concerning the Indonesian National Police. With this regulation, the Chief of Police provides guidelines for police officers to prioritize restorative justice in handling criminal acts, especially cases that can be resolved outside the courts. Police Chief Regulation No. 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice regulates procedures and guidelines in handling certain criminal acts with an approach that focuses on restoring relationships between perpetrators, victims, and the community, rather than just punishment. This regulation bases the handling of certain criminal acts on the principle of restorative justice which aims to repair social relations damaged by criminal acts, not just punishing the perpetrators. This approach prioritizes dialogue between the perpetrator and the victim, so that both parties can reach a mutually beneficial and peaceful resolution.

Not all criminal cases can be resolved with a restorative approach. This regulation sets out certain criteria for cases that can be subject to this approach, such as minor crimes and cases that

do not result in major victims or serious losses. In this case, narcotics are one of the focuses, where drug users involved in criminal acts are prioritized to receive rehabilitation, not detention or imprisonment. In the restorative justice process, there are several stages that need to be carried out, including: 1) Mediation between the perpetrator and the victim. The dialogue process is carried out to reach a mutual agreement regarding the resolution of the problem; 2) Rehabilitation for perpetrators. Especially for drug users, rehabilitation is emphasized more than imprisonment; 3) Settlement outside the court. In some cases, problem solving is done outside the court through deliberation and agreement between the parties concerned.

For perpetrators who meet the requirements and criteria, case resolution can be done without going through a formal court process, where the perpetrator is given the opportunity to undergo rehabilitation and recovery through an appropriate institution. The police have a central role in implementing this restorative approach, by coordinating the mediation process between the perpetrator and the victim, and ensuring that the perpetrator receives appropriate rehabilitation. The police are also responsible for evaluating the eligibility of cases that can be resolved with this approach. In the context of narcotics, this regulation emphasizes the importance of rehabilitation for drug users. For perpetrators involved in drug abuse, this approach prioritizes the medical and social rehabilitation process, rather than detention that focuses on coaching. This aims to restore the physical and mental condition of the perpetrator so that they can return to society as better individuals.

In addition to case resolution, this regulation also regulates the prevention of criminal acts, including by educating the public about the negative impacts of criminal acts and narcotics, as well as the importance of the role of families and communities in supporting the recovery of perpetrators. In implementing this policy, there is a monitoring and evaluation mechanism to ensure the success and effectiveness of the implementation of the restorative justice policy. The police are responsible for supervising perpetrators undergoing rehabilitation and ensuring that perpetrators follow the process in accordance with applicable regulations. Overall, Police Regulation No. 8 of 2021 aims to reduce tensions between perpetrators of criminal acts and victims in a more humane and restorative manner, minimize detention, and provide opportunities for perpetrators to improve themselves through rehabilitation and recovery.

Criminal Acts of Drug Abuse Through Rehabilitation with a Restorative Justice Approach

Attorney General's Guideline No. 18 of 2021 concerning Settlement of Criminal Acts of Drug Abuse Through Rehabilitation with a Restorative Justice Approach is one of the progressive policies that aims to change the paradigm of handling narcotics crimes in Indonesia (Adi, 2021). This guideline was born in response to the increasing cases of drug abuse which not only have a negative impact on individual users, but also affect social, economic, and public health stability. So far, a repressive approach that emphasizes punishment often does not provide an effective solution, especially for drug users who actually need rehabilitation rather than imprisonment. This guideline prioritizes a restorative justice approach that emphasizes recovery and social reintegration for perpetrators of drug abuse. Through these guidelines, the Attorney General provides guidance to the prosecutor's office in processing drug abuse cases by considering factors such as the level of culpability, social impact, and the perpetrator's rehabilitation needs. In this approach, the main objective is to provide more humane treatment to drug users, reduce stigma, and encourage them to recover and return to contributing positively to society.

With these guidelines, it is hoped that law enforcement against drug crimes will not only be oriented towards punishment alone, but will also be able to provide more sustainable and fair solutions. This approach is also in line with the spirit of Law Number 35 of 2009 concerning Narcotics which recognizes rehabilitation as one form of treatment for drug users (Febriana et al., 2024). However, the implementation of these guidelines requires cross-sector cooperation, including law enforcement officers, rehabilitation institutions, and the community, to ensure that restorative justice can run effectively and provide real positive impacts. With the existence of this police chief regulation, perpetrators of narcotics crimes can obtain non-penal justice as long as

the perpetrators can cooperate with the police to uncover other narcotics perpetrators, namely drug dealers and distributors. This regulation establishes the procedure for implementing rehabilitation through legal processes as part of the approach to handling drug abuse crimes that is oriented towards restorative justice. Rehabilitation is carried out through two main forms, namely medical rehabilitation carried out at local rehabilitation institutions or health services, and social rehabilitation organized by social rehabilitation centers managed by the Ministry of Social Affairs, social services, or the community. The determination of the implementation of rehabilitation is stated in the minutes of the implementation of rehabilitation, which is an official document in the legal process.

In cases where the determination of rehabilitation does not include the duration of implementation, the relevant rehabilitation institution has the authority to determine the length of the rehabilitation process. During the rehabilitation period, supervision is carried out by the public prosecutor, with a mandatory reporting mechanism for suspects which is regulated according to the time and method that has been determined. This supervision is supported by a certificate from the rehabilitation institution as evidence of the implementation of rehabilitation. If the suspect does not undergo rehabilitation without a valid reason or does not comply with the provisions set, the public prosecutor has the right to issue a written warning. If the warning is ignored, the public prosecutor can continue the legal process by prosecuting, including coercive measures against the suspect. After the suspect completes rehabilitation, he is required to report this to the public prosecutor. In this case, the public prosecutor will not continue the prosecution process and will forward the report to the Head of the District Attorney's Office (*Kejaksaan Negeri, Kajari*) to issue a decision not to prosecute.

The Kajari Is given a maximum of three days to Issue a decision that includes the status of the suspect who is not prosecuted and the completion of evidence in accordance with statutory regulations. The Attorney General implements the Attorney General's Guidelines No. 18 of 2021 concerning the Settlement of Narcotics Abuse Criminal Cases through rehabilitation with a Restorative Justice Approach with several strategic steps by the principles of restorative justice and rehabilitation objectives (Wardika et al., 2024). These guidelines aim to provide an opportunity for perpetrators of drug abuse, especially users, to obtain recovery through rehabilitation, rather than with a more repressive prison sentence. In determining cases that are eligible for rehabilitation, the Attorney General instructs prosecutors to assess and select cases that can be resolved through rehabilitation, by considering factors such as the type of drug abused, the level of involvement of the perpetrator, and the social impact of the act. Cases involving drug users who are not involved in drug trafficking and who still have the potential to recover are prioritized for rehabilitation.

These guidelines prioritize social and medical rehabilitation as alternatives for perpetrators of drug abuse. The Attorney General ensures that the rehabilitation process is carried out through authorized rehabilitation institutions, be it hospitals or social rehabilitation centers that work together with the authorities, such as the Ministry of Social Affairs and the Social Services. This rehabilitation is expected to reduce the number of arrests and focus on the recovery of perpetrators so that they can return to being productive in society. In this guideline, the Attorney General also encourages the use of a restorative approach involving perpetrators, victims, and the community. Prosecutors can facilitate mediation to ensure that social relationships damaged by drug abuse can be repaired. This process can be carried out by involving the family, victims (if any), and the community in reaching a mutually beneficial settlement agreement. The Attorney General stipulates that supervision of the implementation of rehabilitation is carried out strictly.

Prosecutors ensure that perpetrators who receive rehabilitation undergo the process seriously and in accordance with applicable provisions. This is done by making periodic reports from the rehabilitation institution to the prosecutor's office, including a rehabilitation certificate that must be submitted by the rehabilitation institution to the prosecutor to ensure the perpetrator's seriousness in undergoing rehabilitation. After the perpetrator has undergone

rehabilitation in accordance with applicable provisions, the Attorney General provides a policy to stop the criminal process against the perpetrator who has successfully undergone rehabilitation. In this case, the prosecutor reports the results of the perpetrator's rehabilitation to the Head of the District Attorney's Office (Kajari) to be considered in the prosecution decision, and if the perpetrator has completed rehabilitation, the prosecution status can be stopped. If the perpetrator does not undergo rehabilitation in accordance with the provisions or does not fulfill the obligation to rehabilitate, the prosecutor can issue a written warning. This warning serves to ensure that the perpetrator does not avoid the obligation to rehabilitate and still gets the opportunity to improve himself. If the perpetrator still does not undergo rehabilitation without a valid reason, the prosecutor can take further legal action, including filing a prosecution.

In addition to handling cases, Attorney General's Guidelines No. 18 of 2021 also emphasizes the importance of socializing the public regarding the importance of rehabilitation for drug abusers. The Attorney General ensures that the public understands the role of rehabilitation in the recovery of perpetrators and to prevent further drug abuse. These prevention efforts are carried out through counseling and education programs involving government agencies and community organizations. With the implementation of these guidelines, the Attorney General hopes to strengthen a more humanistic approach in handling drug crimes, where rehabilitation is the main solution for drug users, as well as providing them with the opportunity to return to society in better and healthier conditions. However, if the suspect repeats the crime of drug abuse in the future, the rehabilitation that has been undergone will still be counted as part of the legal process that has been carried out. This regulation aims to provide clarity on procedures, ensure accountability in the implementation of rehabilitation, and support recovery efforts for drug users as part of a more humanistic legal approach.

CONCLUSION

Legal regulations have a strategic role in supporting preventive policies in combating narcotics crimes. Preventive policies regulated in the legal framework, such as Law Number 35 of 2009 concerning Narcotics, Regulation of the Chief of Police No. 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice, and Guidelines of the Attorney General No. 18 of 2021 concerning Settlement of Narcotics Abuse Criminal Cases Through Rehabilitation (Mugianto et al., 2022; Permana & Said, 2022; Sulistyawati, 2023), demonstrate the government's commitment to prioritizing an approach that is not only repressive but also preventive and restorative. Based on the results of this discussion, it can be divided into two preventive policies in combating narcotics crimes, namely: (1) Legal regulations regarding preventive policies in combating narcotics crimes consist of: a) Regulation of the Chief of Police No. 8 of 2021 concerning handling of criminal acts based on restorative justice (Nasution et al., 2022); b) Guidelines of the Attorney General No. 18 of 2021 Concerning Settlement of Narcotics Abuse Crime Cases Through Rehabilitation with a Restorative Justice Approach; (2) Preventive policies carried out by the Republic of Indonesia Police in dealing with narcotics crimes, namely: a) Primary prevention policy means that this prevention is generally carried out on children and the younger generation who have never abused narcotics; b) Secondary prevention policy means that secondary prevention is generally carried out on children and generations who have abused narcotics. Sectors of society that can help children, the younger generation stop abusing narcotics. This activity is carried out by early detection of children who have used narcotics, individual and family counseling of users, and social guidance through home visits; c) Tertiary prevention policies are aimed at narcotics victims or former narcotics victims. Tertiary prevention activities are carried out in the form of social guidance and counseling for the person concerned and their family and peer group, the creation of a social environment and social supervision that benefits former victims for solid recovery, the development of interests, talents and work skills, coaching parents, family, friends where the victim lives so that they are ready to accept former victims well so that former victims do not return to abusing narcotics. Preventive policies aim to prevent drug abuse through education, socialization, and strengthening the role of families and communities (Rachman et al., 2022).

SUGGESTION

However, the success of this policy is highly dependent on the effectiveness of its implementation in the field, which is often hampered by limited cross-sector coordination, lack of resources, and low public awareness. In addition, there are still challenges in aligning legal norms with dynamic social realities, so that continuous evaluation and improvement of regulations are required. Thus, this study emphasizes the importance of strengthening the legal rules that underlie preventive policies and increasing cooperation between the government, law enforcement officers, educational institutions, and the community in creating an environment free from the threat of narcotics. The combination of preventive, educational, and restorative approaches supported by strong legal rules can be an effective strategy to overcome narcotics crimes holistically and sustainably.

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