Transformation of Criminal Law Policy in Combating Narcotics Crimes Through a Criminological Approach

Tiarasi Malau, Mhd. Azhali Siregar, T. Riza Zarzani

Abstract

The development of narcotics-related crimes in Indonesia has significantly increased both in quantity and in the complexity of criminal patterns. Criminal law policies that predominantly emphasize repressive approaches are considered incapable of effectively reducing narcotics abuse and illicit trafficking. This study aims to analyze the transformation of criminal law policies in combating narcotics crimes through a criminological approach and to formulate an ideal legal framework for reforming narcotics control policies in Indonesia. This research employs normative legal research methods using statutory, conceptual, and case approaches. Legal materials were obtained from primary, secondary, and tertiary sources and analyzed qualitatively. The findings reveal that penal-oriented approaches focusing solely on punishment have not adequately addressed the criminogenic roots of narcotics crimes. Social, economic, environmental, and rehabilitation-related factors remain the primary causes of recurring narcotics offenses. The transformation of criminal law policy should therefore be directed toward an integrative model combining penal and non-penal approaches through strengthening rehabilitation mechanisms, restorative justice, community-based prevention, and humanistic criminological policies that uphold human rights protection. This study concludes that reforming narcotics criminal law requires not only regulatory reconstruction but also a paradigm shift in law enforcement toward a more adaptive, proportional, and socially just system.

***Keywords**:* Criminal Law Policy, Narcotics, Criminology, Crime Prevention, Legal Reform

Tiarasi Malau[1]
[1]Law, Universitas Pembangunan Panca Budi, Indonesia e-mail:
tiarasimalau@gmail.com[1]

Mhd. Azhali Siregar[2], T. Riza Zarzani[3]
[2,3]Law, Universitas Pembangunan Panca Budi, Indonesia e-mail:
azhalisiregar@dosen.pancabudi.ac.id[2], rizazarzani@dosen.pancabudi.ac.id[3]

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Introduction

Narcotics-related crimes continue to constitute a multidimensional and transnational legal issue in contemporary society. The illicit trafficking and abuse of narcotics not only threaten national security stability but also generate severe social, economic, and public health consequences, including the moral degradation of younger generations. Indonesia has long been categorized as a country facing a narcotics emergency due to the persistent increase in narcotics abuse and illegal distribution each year. This condition demonstrates that narcotics crimes can no longer be perceived as ordinary offenses, but rather as extraordinary crimes requiring comprehensive and systematic countermeasures [1].

From a normative perspective, the Indonesian government has enacted various legal instruments to address narcotics-related crimes, particularly through Law Number 35 of 2009 concerning Narcotics. The legislation imposes severe criminal sanctions upon narcotics traffickers, including life imprisonment and capital punishment for major drug syndicates. Nevertheless, in practice, the predominantly repressive approach emphasizing punishment has not produced optimal results. The high rate of recidivism, the overcrowding of correctional institutions, and the continued expansion of narcotics networks within prisons indicate a significant discrepancy between *das sollen* and *das sein* in the enforcement of narcotics law in Indonesia [2].

An excessively penal-oriented criminal law policy tends to overlook the criminogenic factors underlying narcotics abuse and trafficking. From a criminological perspective, narcotics crimes are influenced by numerous factors, including poverty, social disorganization, peer-group influence, economic pressure, and weak family supervision [3]. Consequently, criminal law policies that merely focus on punitive measures are considered insufficient to resolve the root causes of narcotics-related crimes.

On the other hand, the development of modern legal paradigms has increasingly recognized restorative and rehabilitative approaches as integral components of the criminal justice system. The concept of restorative justice, for instance, has emerged as a more humane and socially oriented alternative in criminal case resolution [4]. Within the context of narcotics offenses, drug users should not solely be regarded as perpetrators of crime, but also as victims who require medical and social rehabilitation. Such an approach aligns with the evolution of modern penal theories, which no longer prioritize retribution alone, but also emphasize social protection and offender rehabilitation.

Previous studies have predominantly focused on the normative aspects of punishment and the effectiveness of law enforcement in combating narcotics crimes. Research specifically examining the transformation of criminal law policy through a criminological approach remains relatively limited, particularly studies integrating penal and non-penal policies in a systematic manner. Therefore, this study possesses significant academic urgency in examining the reformulation of narcotics criminal law policies that are more adaptive to Indonesia's evolving social dynamics. Based on the foregoing discussion, the research problems addressed in this study are as follows:

1. How has the transformation of criminal law policy in combating narcotics crimes through a criminological approach developed in Indonesia?
2. What constitutes an ideal formulation of criminal law policy for combating narcotics crimes in Indonesia?

Literature Review 1. Theory of Criminal Law Policy in Crime Prevention

Criminal law policy fundamentally constitutes a part of broader social policy aimed at protecting society through the application of criminal law mechanisms. Barda Nawawi Arief explains that criminal law policy represents the rational effort of the state to combat crime through the formulation, implementation, and execution of criminal law [5]. In the context of

narcotics crimes, criminal law policy functions not merely as a repressive instrument, but also as a preventive mechanism intended to minimize the underlying causes of criminal conduct.

The transformation of criminal law policy in Indonesia has undergone significant development, particularly following the emergence of progressive legal thought and restorative justice paradigms. Modern sentencing systems have gradually shifted from retributive orientations toward rehabilitative and social reintegration approaches [6]. This development indicates that criminal law is no longer viewed solely as a mechanism of punishment, but also as a humane instrument for social protection.

According to the social defence theory, criminal law policy must provide protection for society while simultaneously respecting the human rights of offenders [7]. In narcotics cases, drug users often occupy an ambiguous position as both perpetrators and victims. Consequently, repressive approaches without adequate rehabilitation measures may increase recidivism and further marginalize offenders socially.

Modern criminal law policy also emphasizes the importance of integrating penal and nonpenal policies. Penal approaches are implemented through law enforcement and criminal punishment, whereas non-penal approaches involve education, rehabilitation, economic empowerment, and the strengthening of social institutions within society [8]. The combination of these two approaches is considered more effective in addressing narcotics crimes, which are inherently complex and organized in nature.

From the perspective of criminal law reform, the transformation of criminal law policy must also consider developments in human rights principles and sentencing proportionality. Siregar argues that the Indonesian criminal justice system should evolve toward a system that places humanitarian values at the center of law enforcement [9]. Accordingly, narcotics law reform should not merely involve increasing criminal sanctions, but also transforming law enforcement paradigms into more adaptive and justice-oriented mechanisms.

Research conducted by Zarzani et al. concerning the reform of terrorism criminal law demonstrates that substantive justice values should become the primary foundation in modern criminal policy formulation [10]. This concept is highly relevant to narcotics crime prevention because excessively repressive approaches frequently generate legal inequality and potential human rights violations.

Furthermore, the development of restorative justice within Indonesia's criminal justice system illustrates a shift toward more humane legal settlement mechanisms [11]. Such an approach may serve as a conceptual foundation for reforming narcotics law policy, particularly regarding narcotics users and addicts who require rehabilitation rather than purely punitive sanctions.

2. Criminological Approaches in Combating Narcotics Crimes

Criminology is a scientific discipline that examines crime, the causes of criminal behavior, offender conduct, and societal reactions toward criminal acts. In the context of narcotics offenses, criminological approaches are essential because narcotics crimes are influenced not only by legal factors but also by social, psychological, economic, and cultural conditions [12].

Edwin H. Sutherland's differential association theory explains that criminal behavior is learned through social interaction within particular environments. Narcotics abuse frequently occurs as a result of deviant peer-group influence and unhealthy social environments. This phenomenon demonstrates that narcotics problems cannot be resolved solely through punitive criminal sanctions [13].

Additionally, Robert K. Merton's strain theory argues that economic pressure and an individual's inability to achieve socially accepted goals often encourage involvement in criminal activities, including narcotics trafficking [14]. This condition remains highly relevant to Indonesia's social realities, where poverty and social inequality continue to contribute to the rising prevalence of narcotics-related crimes.

Criminological approaches also emphasize the importance of preventive measures through strengthening social institutions such as families, educational systems, and community environments. Repressive efforts that are not balanced by preventive approaches merely perpetuate recurring cycles of criminality. Therefore, criminal law policies must be integrated comprehensively with broader social policies [15].

In practice, criminological approaches are closely related to rehabilitation concepts for narcotics addicts. Drug addicts cannot entirely be categorized as conventional offenders because they are simultaneously victims of substance dependency. Rehabilitative approaches therefore represent a more humane form of legal protection oriented toward social recovery [16].

Research conducted by Rafianti et al. concerning halal drug supervision demonstrates that public health policy and legal policy are closely interconnected in protecting society from the misuse of certain substances [17]. This finding illustrates that narcotics prevention policies must also consider public health dimensions comprehensively.

Modern criminological approaches further position society as an essential component of crime prevention systems. Community-based crime prevention has become an effective model for preventing narcotics abuse through education, environmental supervision, and strengthening community social resilience [18].

Accordingly, the transformation of narcotics criminal law policy through a criminological approach must be directed toward achieving balance among law enforcement, rehabilitation, and social prevention. Such an approach is expected to create a more effective, proportional, and socially just narcotics prevention system.

Research Methodology

This study employs normative legal research using statutory, conceptual, and case approaches. Normative legal research is utilized to examine legal norms, legal principles, and criminal law policies related to the prevention of narcotics crimes in Indonesia [19].

The statutory approach is conducted through the analysis of various legal regulations, including Law Number 35 of 2009 concerning Narcotics, the Indonesian Criminal Code, and other regulations related to rehabilitation and narcotics law enforcement. Meanwhile, the conceptual approach is used to examine theories of criminal law policy, criminology, restorative justice, and modern penal theories relevant to this research.

The sources of legal materials consist of primary, secondary, and tertiary legal materials. Primary legal materials include legislation and relevant court decisions. Secondary legal materials are derived from scientific journals, academic books, conference proceedings, and indexed scholarly articles discussing criminal law policy and criminology. Tertiary legal materials include legal dictionaries, legal encyclopedias, and other supporting references.

The collection of legal materials is conducted through library research by examining various legal documents and relevant academic literature. Subsequently, the analysis of legal materials is carried out qualitatively using descriptive-analytical methods in order to obtain systematic and comprehensive legal arguments [20].

Results 1. Transformation of Criminal Law Policy in Combating Narcotics Crimes Through a Criminological Approach

Criminal law policy in combating narcotics crimes in Indonesia has long been dominated by repressive approaches through severe criminal punishment. This orientation is reflected in Law Number 35 of 2009 concerning Narcotics, which imposes strict criminal sanctions upon narcotics offenders. Normatively, such policies are intended to create deterrent effects and protect society. Nevertheless, in practice, these approaches have not been entirely effective in reducing narcotics abuse.

Data from correctional institutions indicate that the majority of prison inmates are incarcerated for narcotics-related offenses. This overcrowding condition has generated

additional problems, including the expansion of narcotics trafficking networks within correctional facilities themselves. Such circumstances demonstrate that punitive measures alone are incapable of systematically dismantling narcotics crime networks.

From a criminological perspective, narcotics crimes are influenced not only by individual factors but also by social and economic conditions. Many narcotics offenders originate from socially and economically vulnerable groups. Therefore, criminal law approaches that excessively emphasize punishment risk increasing the social marginalization of offenders.

The transformation of criminal law policy has gradually emerged through strengthening rehabilitation measures for narcotics addicts and victims of drug abuse. This development reflects a paradigm shift from the *crime control model* toward the *treatment model*. Drug addicts are increasingly perceived as individuals requiring recovery rather than merely as criminals [21].

Restorative approaches have also begun to develop within Indonesia's criminal justice system. The concept of restorative justice places social recovery as the primary objective in resolving criminal cases [22]. In the context of narcotics offenses, such an approach may be applied to drug users by prioritizing medical and social rehabilitation instead of imprisonment.

Furthermore, the transformation of criminal law policy must also consider human rights dimensions. Disproportionate punishment may potentially violate principles of humanity and social justice. Siregar emphasizes that modern criminal justice systems must prioritize human rights protection and maintain balance between state interests and individual rights [23].

Accordingly, the transformation of narcotics criminal law policy through a criminological approach requires a paradigm shift from purely repressive mechanisms toward integrative approaches combining law enforcement, rehabilitation, social prevention, and community empowerment.

2. Ideal Formulation of Criminal Law Policy in Combating Narcotics Crimes in Indonesia

The ideal formulation of criminal law policy in combating narcotics crimes must be constructed through a multidimensional approach oriented toward addressing the root causes of criminal behavior. Penal policies remain necessary for narcotics traffickers and organized drug syndicates; however, narcotics users and addicts require more proportional and rehabilitative approaches.

First, criminal law reform must strengthen rehabilitation mechanisms as an integral component of the criminal justice system. Rehabilitation should not be viewed as a secondary alternative, but rather as a form of legal protection for victims of narcotics abuse. Such an approach aligns with restorative justice principles and human rights protection.

Second, synchronization between criminal law policy and social policy is urgently required. Narcotics prevention must be implemented through strengthening education, community economic empowerment, family supervision, and social environmental development. Community-based crime prevention approaches are considered more effective in preventing narcotics abuse from an early stage.

Third, law enforcement authorities should prioritize humane and professional approaches in handling narcotics cases. Repressive law enforcement that disregards social dimensions may create legal injustice. Therefore, institutional reform and the improvement of law enforcement professionalism constitute essential components in transforming criminal law policy.

Fourth, narcotics law reform must clearly distinguish among narcotics users, addicts, couriers, and traffickers. At present, many narcotics users are treated similarly to dealers, resulting in sentencing disparities. Regulatory reformulation is therefore necessary to establish a more proportional and equitable sentencing system.

In addition, strengthening criminological approaches should be integrated into national narcotics prevention policies. Such approaches enable the government to understand the

underlying causes of crime more comprehensively, thereby producing policies that are not solely repressive but also preventive and rehabilitative.

Therefore, the ideal formulation of criminal law policy in combating narcotics crimes must position law as an instrument of social protection grounded in justice rather than merely as a mechanism of punishment. Such reform is essential to ensure that Indonesia's criminal justice system can address the complexity of narcotics crimes in a more effective and humane manner.

Conclusion

The transformation of criminal law policy in combating narcotics crimes in Indonesia demonstrates a paradigm shift from repressive approaches toward integrative criminologybased approaches. Punitive mechanisms alone have proven insufficient in reducing narcotics crimes because they fail to address the social, economic, and environmental factors that constitute criminogenic conditions. Therefore, criminal law policy must be directed toward balancing law enforcement, rehabilitation, human rights protection, and community-based social prevention.

The ideal formulation of criminal law policy in combating narcotics crimes should proportionally integrate penal and non-penal approaches. Strengthening rehabilitation for narcotics users, reforming sentencing regulations, improving the professionalism of law enforcement authorities, and reinforcing community-based preventive measures represent strategic steps toward establishing a more humane, effective, and socially just narcotics prevention system in Indonesia.

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