



## CRIMINAL POLICY IN EFFORTS TO OVERCOME NARCOTICS CRIME DURING THE COVID 19 PANDEMIC (A STUDY AT THE BNN OF KABUPATEN TAPANULI SELATAN)

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### Abstract

*Narcotics are not something foreign to us, in recent years, Indonesia has not only been a transit and destination for narcotics trafficking, but is a strategic area and has great potential in producing narcotics. Abuse of narcotics and dangerous drugs has reached a concerning state so that it has become a national problem in Indonesia, especially in South Tapanuli Regency. Narcotics abuse in South Tapanuli Regency has increased, especially during the Covid-19 pandemic which has caused unrest in society, Indonesian society is currently not only fighting the Covid-19 pandemic, but also fighting against narcotics crimes. The type of research used in this thesis research is empirical legal research. research in writing this thesis is descriptive analytical using 5 (five) approaches, namely the legislative approach, case approach, comparative approach, conceptual approach and historical approach. The data sources for this research come from secondary data obtained from library materials and primary data obtained from interviews. in collecting data, researchers do it with literature studies and field studies. data collection tools used in the form of document studies and interview guidelines. The collected data will then be processed using qualitative data analysis, namely by means of all data collected from primary legal materials and secondary materials. The Criminal Policy carried out by the National Narcotics Agency of South Tapanuli Regency in overcoming Drug Abuse during the Covid-19 pandemic is carried out through non-penal and Penal Efforts. In the implementation of Non-penal Efforts, the Soft Power Approach strategy is carried out as an Effort to Prevent Drug Abuse through Drug-Clean Village activities, Anti-Drug Family Resilience Activities and Drug Danger Counseling activities in the Community. The implementation of Penal Efforts is carried out using the Hard Power Approach through strict and measured Law Enforcement in handling drug syndicates, Implementation of Law Enforcement for Case Disclosure, Routine Patrols and Raids in collaboration with Legal Institutions.*

**Keywords:** *Criminal Policy, Prevention Efforts, Narcotics, Covid-19*

### A. INTRODUCTION

Narcotics are not something foreign to us, In recent years, Indonesia has not only become a transit and destination for narcotics distribution, but is a strategic and very potential region in producing narcotics. Abuse of narcotics and dangerous drugs has reached a concerning state, so that it has become a national problem. Narcotics abuse is a serious problem that must receive full attention from the entire Indonesian nation, not only the government, the community must also participate in important efforts to combat narcotics crimes in Indonesia. Even.

The President of the Republic of Indonesia, Mr. Joko Widodo, stated that Indonesia is in a drug emergency and called for a major war against all forms of drug crimes. Drug abuse crimes have recently received special attention from various groups, both print and electronic media, which are not only domestic/national, but have become regional and even global through cooperation between countries. So that various international organizations have concretely taken positive steps that are considered necessary as preventive efforts against drug abuse crimes. The situation caused by narcotics continues to be attempted and handled by the government, both by conducting socialization related to the dangers of narcotics and by

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creating legal products that can provide room for law enforcement to eradicate narcotics. The legal regulations governing narcotics in Indonesia are Law No. 35 of 2009 concerning Narcotics. Where this legal product was born because narcotics crimes are no longer carried out individually, but involve many people together, even working with organized syndicates with extensive networks in secret both at the national and international levels. This can also prevent the increasing tendency both quantitatively and qualitatively with victims increasingly widespread among children, adolescents, and the younger generation in general. Narcotics on the one hand are drugs that are basically useful in the field of treatment or health and the development of science, but can also cause dependence which is very detrimental if misused, to prevent and provide narcotics for the benefit of treatment and health services, one of the government's efforts is to make legal regulations regarding the distribution, import, export, planting, use of narcotics in a controlled manner and carried out with strict supervision.

In this case, researchers realize that drug crimes have extraordinary destructive power, damage human character and physique, cause dependency effects, result in moral degradation and have a negative impact on public health conditions. Drug crimes are no longer viewed as ordinary crimes but as extraordinary crimes. Looking at data from March 18, 2020, the Chinese Center for Disease Control and Prevention revealed that individuals with chronic respiratory diseases have a 6.3% higher fatality rate than the whole. Comorbid chronic obstructive pulmonary disease, cardiovascular disease which often occurs in chronic smokers and people with substance abuse diseases have been shown to worsen the prognosis due to the corona virus and worsen acute respiratory syndrome. The 2021 National Institute of Drug Abuse (NIDA) page explains that research results during the Covid-19 pandemic show that people with substance abuse disorders have an increased risk of worsening morbidity and mortality due to Covid-19.

The Covid-19 pandemic has more or less affected the map of drug abuse and distribution in the world, both in terms of demand and supply. UNODC has released a booklet on the impact of the Covid-19 pandemic on drug abuse worldwide that we should understand together. In this time of concern, it is possible that drug markets will utilize IT. We need to be vigilant together, at least to protect ourselves and our families from the development of narcotics that is in line with the development of information technology. Working together between the community, government agencies, private institutions, education to close ranks to prevent and eradicate drug abuse and illicit trafficking during the Covid-19 pandemic. Clean from Covid-19, clean from drugs.

Table 1:

**Number of Drug Abuse Rehabilitation Data at the South Tapanuli BNNK Primary Clinic 2020-2022**

NO	GENDER	YEAR		
		2020	2021	2022
	MAN	51	119	87
	WOMAN	0	7	10

O	AGE	2020	2021	2022
	17-25	13	35	28
	26-35	16	54	38
	36-45	20	25	26
	46-55	1	8	4
	56-65	1	2	
	65>		2	

Source: Data from BNNK South Tapanuli From the table above, it shows that from the 6 regencies/cities handled by BNNK South Tapanuli, there was a decrease and increase related to drug abuse during COVID-19. In 2020, the number of drug abusers was around 51 people with male gender with an age range ranging from 17 years to 65 years, in 2021 there was an increase consisting of 126 people, consisting of 119 men and 7 women, and in 2022 there was a decrease that was not too significant, namely the number of abusers was 97 people, consisting of 87 men and 10 women. However, even during Covid-19, BNNK South Tapanuli continues to take action with mitigation and prevention efforts by conducting routine patrols and socialization in the community.

Long before the Covid-19 Pandemic, According to data submitted by the National Narcotics Agency of South Tapanuli Regency from the last 4 (four) years, namely, 2016 to 2019 before the Pandemic, drug abuse victims who were rehabilitated continued to increase in 2016 as many as 43 people, in 2017 as many as 48 people, and in 2018 as many as 77 people. However, for 2019, researchers did not get a definite figure considering the change/mutation of officers of the National Narcotics Agency of South Tapanuli Regency, the cause of the increase in drug abuse can be seen from the aspects of conditions during the Covid-19 period, cultural aspects, and the economy of the South Tapanuli community, it is very possible for people to become drug abusers, especially during the Covid-19 period. When compared to the number during the Covid-19 period from 2020-2022, drug abuse is relatively higher than before Covid, but continues to increase every year.

## **B. FORMULATION OF THE PROBLEM**

1. What are the legal provisions regarding the crime of narcotics abuse in Indonesia?
2. What is the Role of the National Narcotics Agency of South Tapanuli Regency in Combating Narcotics Abuse?
3. How is the National Narcotics Agency of South Tapanuli Regency's prevention effort against the increasing narcotics abuse during the COVID-19 pandemic?

## **C. DISCUSSION**

### **1. LEGAL PROVISIONS ON CRIMINAL OFFENCES OF NARCOTICS ABUSE IN INDONESIA**

#### **a. History of the Birth of the Law on Narcotics Crimes in Indonesia**

Since Indonesia's independence on August 17, 1945, the Government of the Republic of Indonesia has made laws concerning the production, use and distribution of dangerous drugs where the authority is given to the Minister of Health to regulate it. In the 1970s the narcotics problem in Indonesia began to spread and increase, this was also influenced by the Vietnam War and the cultural revolution in the United States, so that in 1971 through Presidential Instruction No. 6 of 1971 the Indonesian government formed a coordinating body (inter-departmental), all activities to combat various forms of acts that can threaten state

security, namely counterfeiting, smuggling, the dangers of narcotics, juvenile delinquency, subversive activities and supervision of foreigners. The long journey of narcotics regulation shrouded in polar views between the criminal approach and the health approach ended with the amendment of Law Number 22 of 1997 concerning Narcotics. The Government considered that Law Number 22 of 1997 concerning narcotics was no longer relevant to be implemented in order to deal with the development of illegal narcotics circulation in Indonesia. On October 12, 2009, Law Number 35 of 2009 concerning Narcotics (hereinafter referred to as the Narcotics Law) was enacted. In principle, the Narcotics Law was formed with 4 (four) main objectives, namely:

- 1) Ensure the availability of narcotics for the benefit of health services and/or the development of science and technology;
- 2) Prevent, protect and save the Indonesian nation from drug abuse;
- 3) Eradicating the illicit trafficking of narcotics and narcotic precursors; and
- 4) Ensure the provision of medical and social rehabilitation efforts for drug abusers and addicts;

**b. Statutory Provisions and Legal Regulations Concerning Narcotics Crimes**

In Indonesia, Narcotics Crime is a special crime, meaning that its special regulations are outside the Criminal Code. The Indonesian government has issued Law Number 35 of 2009 concerning Narcotics which was enacted on October 12, 2009, where the considerations for issuing the law are:

- 1) In order to realize a prosperous, just and prosperous Indonesian society that is evenly distributed materially and spiritually based on Pancasila and the 1945 Constitution of the Republic of Indonesia, the quality of Indonesian human resources as one of the national development assets needs to be maintained and improved continuously, including their health level;
- 2) In order to improve the health level of Indonesia's human resources in order to realize the welfare of the people, it is necessary to make efforts to improve the field of medical treatment and health services, including by ensuring the availability of certain types of narcotics that are greatly needed as medicine and by preventing and eradicating the dangers of abuse and illicit trafficking of narcotics and narcotic precursors;
- 3) Narcotics on the one hand are drugs or substances that are useful in the field of medical treatment or health services and scientific development and on the other hand can also cause very detrimental dependency if misused or used without strict and careful control or supervision;

Law No. 35 of 2009 stipulates that narcotics may only be used for medical services and/or research to develop medical science and technology. Based on these provisions, narcotics are something that may be used or utilized as long as the use or utilization is for the benefit of health services, or for research aimed at developing science and technology in the field of health.

**2. THE ROLE OF THE NATIONAL NARCOTICS AGENCY OF SOUTH TAPANULI DISTRICT IN COMBATING DRUG ABUSE**

**a. Duties, Functions and Authorities of the National Narcotics Agency in Indonesia**

The National Narcotics Agency, hereinafter referred to as BNN in the Regulation of the Head of the National Narcotics Agency, is a non-ministerial government agency that is positioned under and responsible to the President through the coordination of the Chief of the Republic of Indonesia National

Police, more specifically, according to Article 70 of Law Number 35 of 2009, the National Narcotics Agency has the following duties:

- 1) Formulate and implement national policies regarding the prevention and eradication of abuse and illicit trafficking of narcotics and narcotic precursors;
- 2) Prevent and eradicate the abuse and illicit trafficking of narcotics and narcotic precursors;
- 3) Coordinate with the Chief of the Republic of Indonesia National Police in preventing and eradicating the abuse and illicit trafficking of narcotics and narcotic precursors;
- 4) Improving the capacity of medical rehabilitation institutions and social rehabilitation for narcotics addicts, both those organized by the government and the community;
- 5) Empowering communities in preventing the abuse and illicit trafficking of narcotics and narcotic precursors;
- 6) Monitor, direct and improve community activities in preventing the abuse and illicit trafficking of narcotics and narcotic psychotropics;
- 7) Through bilateral and multilateral cooperation, both regional and international, to prevent and eradicate the illicit trafficking of narcotics and narcotic precursors;
- 8) Developing a Narcotics and Narcotics Precursor laboratory;
- 9) Carrying out administrative investigations and inquiries into cases of abuse and illicit trafficking of narcotics and narcotic precursors; and
- 10) Making annual reports regarding the implementation of duties and authorities.

Thus, the establishment of the National Narcotics Agency is a joint effort or ideal in terms of law enforcement. judicial policy through the criminal justice system, the existence of law enforcement and administration of criminal policy which is basically a rational effort to achieve Social Policy, namely the achievement of social welfare and protection for the community which is inseparable from the legislative policy that studies, plans and makes products of laws and regulations through the drafting process so as to produce legal policies that are accepted by the community. The applicable laws and regulations have functions, namely the function of expressing values and the function of instruments.

### **3. COMBATING EFFORTS BY THE NATIONAL NARCOTICS AGENCY OF SOUTH TAPANULI REGENCY AGAINST THE INCREASE IN DRUG ABUSE DURING THE COVID-19 PANDEMIC**

#### **a. Overview of Criminal Policy**

One of the efforts to overcome crime is to use criminal law with its sanctions in the form of criminal penalties. However, this effort is still often questioned. The difference regarding the role of criminal law in dealing with this crime problem, according to Inkeri Anttila, has been going on for hundreds of years and according to Herbert L. Packer, efforts to control anti-social behavior by imposing criminal penalties on someone who is guilty of violating criminal regulations, is a social problem that has an important legal dimension.

The use of legal efforts, including criminal law, as one of the efforts to overcome social problems is included in the field of law enforcement policy. In addition, because the goal is to achieve public welfare in general, this law enforcement policy is also included in the field of social policy, namely all rational efforts to achieve public welfare. As a problem that is included in the policy problem, the use of criminal law is actually not a necessity. There is no absoluteness in the field of policy,

because in essence in policy problems people are faced with the problem of assessing and selecting policies from various alternatives. Thus, the problem of controlling or overcoming crime by using criminal law is not only a social problem as stated by Packer above, but also a policy problem (the problem of policy).

Policy (policy, beleid) is a word or term used everyday, but because of its habit there is a kind of confusion or confusion, confusion or error in defining or describing the term policy (wisdom, wijsheid) which is always associated with the term discretion, besides that the term wisdom is often used interchangeably with other terms such as goals, programs, decisions, laws, provisions, proposals and grand designs, even lay people are often confused and cannot distinguish between policy and politics. Solly Lubis also stated that legal politics is a political policy that determines what legal regulations should apply to regulate various aspects of social and state life.

Efforts or policies to prevent and combat crime are included in the field of criminal policy. This criminal policy is also inseparable from a broader policy, namely social policy, which consists of policies/efforts for social welfare (social welfare policy) and policies/efforts for community protection (social defense policy). Considering that efforts to combat crime through "non-penal" channels are more of a preventive measure for the occurrence of crime, the main target is to address the conducive factors that cause crime. These conducive factors include, among others, social problems or conditions that can directly or indirectly cause or foster crime. Thus, seen from the perspective of macro and global criminal politics, non-penal efforts occupy a key and strategic position in overcoming the causes and conditions that give rise to crime.

As for Penal Policy, it is both a science and an art that ultimately has a practical purpose to enable positive legal regulations to be formulated better and to provide guidance, not only to legislators and also to the organizers or implementers of court decisions. Between the study of criminological factors on the one hand and the study of legislative techniques on the other, legislative phenomena and for a rational art where scholars and practitioners of criminology and law scholars can work together not as opposing or conflicting parties, but as colleagues involved in a common task, namely a common task to produce a realistic, humanistic and forward-thinking, progressive and healthy criminal policy.

The scope of this criminal law policy actually covers quite a broad problem, namely including an evaluation of the substance of the current criminal law for the renewal of the substance of the criminal law in the future and how to implement this criminal law through the components of the criminal justice system to prevent crime. This prevention effort means that criminal law must be one of the instruments to prevent the possibility of crime.

- b. Criminal Policy as an Effort to Combat the Increase in Drug Abuse by the National Narcotics Agency of South Tapanuli Regency during the Covid-19 Pandemic
  - 1) Non Penal Efforts

The war on drugs (War On Drugs) is not only a reactive action (eradication) but also preventive (prevention). Preventive actions are carried out through modern counseling by following the development of technology, information, and communication (ICT). Drug Counseling is a P4GN information dissemination activity that aims to curb the rate of increase in the prevalence of drug abuse and illicit trafficking. The Anti-Narcotics Extension Agents as the vanguard of the prevention program are required to have competence (ability) and performance (willingness) in the P4GN program not only face-to-face (offline),

but also through virtual media. This position places the Drug Extension Agent as an information and messenger for the government.

Before the Covid-19 pandemic, the high number of narcotics was said to be quite high, both among workers, students, unemployed (unemployed) and even during the pandemic, due to the absence of formal activities, because considering formal activities affect high self-quality, and can maintain their own condition, which is different from the pandemic period which requires someone to be at home due to these restrictions, where it is more likely for someone to spur their performance by using narcotics. Most people fill their positive activities and some deviate by doing negative activities such as drug abuse. From the results of research conducted in the field, researchers obtained information that in the implementation of advocacy carried out at the National Narcotics Agency of South Tapanuli there were at least three stages. Among them are:

- a) **Coordination** In the implementation of advocacy, the National Narcotics Agency of South Tapanuli coordinates with stakeholders and the community to determine a joint agenda so that all related parties can attend and understand the purpose of the activity. This stage is a very important stage for the National Narcotics Agency of South Tapanuli because this is where activity planning is carried out as thoroughly as possible, starting from planning the schedule, understanding local village wisdom and anticipating obstacles that may occur.
- b) **Assistance** The second stage in the advocacy is assistance. Assistance is a stage where the National Narcotics Agency of South Tapanuli provides strengthening of understanding to stakeholders and the community about advocacy itself and various other supporting materials around the prevention of drug abuse. In this stage, the community who have participated in strengthening understanding with anti-drug insight will be made anti-drug volunteers in their respective areas and are expected to be active in carrying out anti-drug activities in their respective areas.
- c) **Supervision** The last stage in the implementation of advocacy is supervision. Supervision is a stage where the National Narcotics Agency of South Tapanuli together with stakeholders and the community make regulations on anti-drugs in the specified environment and make an action plan for anti-drug activities. The regulations that have been made will be enforced in the areas where the advocacy has been carried out and then anti-drug actions such as anti-drug campaigns, making slogans, banners and posters about drugs will also be carried out after completing the advocacy as one of the real actions in preventing drug abuse.

## 2) **Penal Efforts**

Efforts to overcome through the penal path emphasize the repressive nature (oppression/eradication/suppression) after the crime occurs. Repressive efforts or prevention through the penal path are carried out after there is a violation or crime that violates Law Number 35 of 2009 concerning Narcotics and what sanctions are received by perpetrators of narcotics crimes. Even since the beginning of the pandemic since 2020, activities have continued, where the South Tapanuli BNN collaborated with the Police from 6 Regencies/Cities, namely the Padangsidimpuan City Police, the South Tapanuli Regency Police, the Padang Lawas Police, the Sibolga Police, and the Central Tapanuli Police. Where activities such as first carrying out a Network Mapping in Drug-Prone

Places/Locations are one of the efforts made by the South Tapanuli National Narcotics Agency in the field of Eradication.

This activity is carried out by working together with community leaders, local residents and other stakeholders in seeking and obtaining information on drug abuse and illicit trafficking in drug-prone areas/locations in The information obtained and collected will then be re-analyzed by the South Tapanuli National Narcotics Agency in order to obtain accurate data. In carrying out the task of eradicating drug abuse and illicit trafficking and drug precursors, the BNN has the authority to conduct investigations and inquiries into drug abuse and illicit trafficking and drug precursors.

## **D. CLOSING**

### **1. Conclusion**

- 1) Law No. 35 of 2009 concerning Narcotics was born due to future challenges in dealing with narcotics crimes. The long journey of narcotics regulation which is shrouded in polar views between the criminal approach and the health approach ended with changes to Law Number 22 of 1997 concerning Narcotics. In principle, the Narcotics Law was formed with 4 (four) main objectives, namely, Ensuring the availability of narcotics for the benefit of health services and/or the development of science and technology, Preventing, protecting, and saving the Indonesian nation from narcotics abuse, Eradicating the illicit trafficking of Narcotics and Narcotics Precursors, Ensuring the regulation of medical and social rehabilitation efforts for Narcotics Abusers and addicts.
- 2) BNN (National Narcotics Agency) which is a non-structural institution that is positioned under and directly responsible to the President of the Republic of Indonesia. BNN was established based on Presidential Decree of the Republic of Indonesia Number 17 of 2002 (which was later replaced by Presidential Regulation Number 83 of 2007). BNN is tasked with coordinating related government agencies in formulating policies and their implementation in the field of availability, prevention and eradication of abuse and illicit trafficking of narcotics, psychotropics, precursors and other addictive substances. The duties, functions and authorities of the National Narcotics Agency are to formulate and implement national policies on the prevention and eradication of abuse and illicit trafficking of narcotics and narcotic precursors; Preparation and formulation of national policies in the field of prevention and eradication of abuse and illicit trafficking of narcotics, psychotropics and precursors and other addictive substances except addictive substances for tobacco and alcohol which are hereinafter abbreviated as P4GN. Conducting investigations into the truth of reports and information regarding the abuse and illicit trafficking of narcotics and narcotic precursors;
- 3) In efforts to overcome and prevent drug abuse during the Covid-19 pandemic, penal and non-penal efforts were carried out. The efforts made were:
  - a) Penal Efforts, Implementation of Law Enforcement, Case Disclosure, Routine Patrols, Raids and Cooperation with the Police and Legal and Health Institutions in their implementation, Implementation of Integrated Assessments for perpetrators who are arrested or caught red-handed abusing narcotics.
  - b) Non-Penal Efforts, Preventive Actions to Prevent Drug Abuse During the Covid-19 Pandemic and Control the Spread of Drugs. As well as influencing the way the Community views the dangers of Drugs, Counseling Activities both directly and online mass media and massive dissemination of news to the Community, implementation of the Shining Village and the formation of an Anti-Drug Society.



## **2. Suggestion**

- 1) The existence of Law Number 35 of 2009 is quite good, especially in terms of the substance regulated therein, it's just that in its implementation there are still many law enforcement officers who do not understand and internalize the Law and on the other hand, the public who are not familiar with the law do not understand or even do not know the existence of regulations governing the rehabilitation of drug users. Therefore, it is important to disseminate information from the South Tapanuli BNN regarding the existence of the South Tapanuli BNN institution and the Law that is currently in effect, so that there is no reason for the public not to know or be afraid of being rehabilitated.
- 2) The duties, functions and authorities that have been given to the National Narcotics Agency are expected to be able to reduce the number of narcotics cases that occur in Indonesia. It is also expected that the National Narcotics Agency can find various types of new narcotics and these new types of narcotics will be immediately regulated in the Law related to the groups and derivatives of these new types of narcotics considering that over time the abuse of narcotics is increasingly rampant.
- 3) With the increasing number of Narcotics Abuse Crimes in the working area of the South Tapanuli National Narcotics Agency and various regions in Indonesia, the BNN is expected to be able to suppress the increasing number of narcotics abuse, especially during the Covid-19 pandemic and even the impact after the Covid-19 pandemic is over. Where narcotics are a serious problem that can trigger various other criminal acts, and can damage the younger generation in society. So it needs very special attention not only from government institutions or law enforcement. So there is a need for other special policies that can suppress the increasing number of narcotics abuse and the latest innovations in the approach to the community, so that the community better understands the seriousness of narcotics crimes. With the wide coverage area of the South Tapanuli National Narcotics Agency, namely 6 regencies/cities, the government hopes that a new BNN will be formed for each district or city, for the sake of efficient efforts to overcome and prevent narcotics abuse.

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