



LEGAL POLITICS IN CRIMINAL LAW POLICIES INREGULATION OF NARCOTICS CRIME IN INDONESIA

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ARTICLE INFO	ABSTRACT
Date received : 22 Oct 2022 Revision date : 21 Nov 2022 Date received : 26 Nov 2022	<i>Political Law in Criminal Law Policy Against Arrangement of Narcotics Crime In Indonesia. The background of this journal writing is the rampant problem of narcotics abuse has become a national and international problem. Narcotics abuse can cause physical damage, mental, emotional and attitudes in society. Various indications indicate that the crime of narcotics is an extraordinary crime is a crime that has a large and multidimensional impact on life. In this scientific journal, the author raises the problem of how the concept of criminal law policy in the prevention of crime and how the criminal law policy on the regulation of narcotics crime in Indonesia. In general, this journal is written with the aim that the younger generation and all citizens of Indonesia know what are the policies of criminal law in handling narcotics cases. This paper is made with normative legal research methods based on Law No. 35 of 2009 on Narcotics, law books, journals, and views of jurists relating to the material under study. Once analyzed The concept of criminal law policy includes criminal policy, criminal law policy and non-penal policy (penal). Criminal law policies on the regulation of narcotics crimes in Indonesia include criminal liability, acts that are qualified as criminal offenses and criminal sanctions.</i>
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INTRODUCTION

Regarding narcotics crimes, which have long been the enemy of the nation, are now increasingly worrying civilized nations to this day. Various indications show that narcotics crime is an extraordinary crime. The meaning is as a crime that has a large and multi-dimensional impact on social, cultural, economic and political as well as the enormity of the negative impact caused by this crime. For this reason, extraordinary punishment seems to be relevant in accompanying the model of crime which has extraordinary characteristics which are currently increasingly spreading throughout the earth as transnational crimes.

If viewed from a juridical perspective, the distribution of narcotics in Indonesia is legal, the Narcotics Law only prohibits the use of narcotics without permission by the law in question. Narcotics crime is used as a promising and rapidly developing business arena, where this activity has an impact on mental damage, both physically and psychologically, to drug users, especially the younger generation. Law enforcement against narcotics crimes has been carried

Out by many law enforcement officers and has received many judge's decisions. It is hoped that law enforcement will be able to become a deterrent to the increasing illicit trade and distribution of narcotics, but in reality it is being carried out more intensively by law enforcers from the narcotics crime itself.

Law enforcement against narcotics crimes in Indonesia, where the government plays the role of organizer of state life, needs to provide protection and community welfare through various policies that are on the agenda in the national development program. This government policy is incorporated in social policy (social policy). One part of this social policy is law enforcement policy, including legislative policy. While the crime prevention policy (criminal policy) itself is part of law enforcement policy (law enforcement policy). Law



enforcement aims to make people obey the law. Community obedience to the law is caused by three things, namely: (1) fear of sinning; (2) fear because the power of the authorities is related to the imperative nature of law; (3) afraid because of shame to do evil. Law enforcement with non-penal means has goals and objectives for internalization purposes. The existence of the Narcotics Law, namely Law No. 35 of 2009 concerning Narcotics is a legal political effort by the Indonesian government to tackle narcotics crime. The formation of the Narcotics Law is expected to be able to tackle the illicit traffic and abuse of narcotics by using criminal law or penal means.

LITERATURE REVIEW

The purpose of writing this journal is to find out how the concept of criminal law policy is in dealing with crime and find out what policies exist in criminal law regarding the regulation of narcotics crimes in Indonesia in accordance with the narcotics laws that apply in Indonesia.

METHOD

This paper uses normative legal research methods. Normative legal research focuses on positive law inventory, legal principles and doctrine, legal discovery in in concreto cases, legal systematics, comparative law and legal history. The writing of this scientific paper uses primary legal materials and secondary legal materials. The primary legal material is in the form of laws and regulations related to the issues raised included Law No. 35 of 2009 concerning Narcotics. Secondary legal material is material that provides an explanation of primary legal material, such as law books, research results, expert opinion (doctrine), and legal journals related to this research.

RESULTS AND DISCUSSION

Concept of Criminal Law Policy in Crime Control

According to Soedarto, legal politics is an attempt to create good regulations under certain circumstances. In depth it is also stated that legal politics is a state policy through its instruments which are authorized to establish the desired regulations and are expected to be used to express what is contained in society to achieve what is aspired to.

Based on the understanding of legal politics as stated above, in general it can be concluded that criminal law politics is an effort to determine the direction in which Indonesian criminal law will be enforced in the future by looking at its current enforcement. This is also related to the conceptualization of criminal law that is best applied. A. Mulder also explained in detail about the scope of the politics of criminal law according to him that the politics of criminal law is a policy line to determine.

- a. To what extent the applicable penal provisions need to be amended or updated,
- b. What can be done to prevent crime
- c. The manner in which investigations, prosecutions, trials and execution of crimes must be carried out.

Politics or criminal law policies can be said to be part of law enforcement policies. In addition, efforts to combat crime through the creation of criminal laws (laws) are also an integral part of efforts to protect society (social welfare). Criminal law policy becomes very reasonable if it is an integral part of social policy or politics (social policy). Political policies have included social welfare policies and social defense policies.

Based on the description above, criminal law policy is essentially an attempt to realize criminal laws and regulations in accordance with conditions at a certain time (*ius constitutum*) and in the future (*ius constituendum*). The logical consequence is that criminal law policy is synonymous with penal reform in a narrow sense, because as a system, law consists of culture (cultural), structure (structural), and substance (substantive) law. The law is part of the substance of the law, reforming criminal law, in addition to updating legislation, and also includes renewal of basic ideas and knowledge of criminal law.

In essence, criminal law policy (penal policy, criminal policy, or *strafrechtpolitiek*) is a whole or total criminal law enforcement process. Based on the political understanding of criminal law put forward above, both by Soedarto and others, the scope of this criminal law policy actually covers quite broad issues, which include evaluating the substance of the criminal law currently in effect for renewal of the substance of criminal law in the future. in the future, and what is no less important is efforts to prevent Narcotics crimes. This prevention effort means that criminal law must also be one of the instruments to prevent the possibility of crime and also the application of criminal law must have an effective effect to prevent before a crime occurs.

Criminal Law Policies Against Regulation of Narcotics Crime in Indonesia



Types of Prohibited Actions in Law No. 35 of 2009 concerning Narcotics

The scope of criminal law includes three provisions, namely criminal acts, accountability, and punishment. The criminal provisions contained in Law no. 35 of 2009 concerning Narcotics is formulated in Chapter XV of Criminal Provisions Article 111 to Article 148. In Law no. 35 of 2009 concerning Narcotics, there are four categories of unlawful acts that are prohibited by law and can be threatened with criminal sanctions, namely:

- a. The first category, namely acts in the form of possessing, storing, controlling or providing narcotics and narcotic precursors (Articles 111 and 112 for class I narcotics, Article 117 for class II narcotics and Article 122 for class III narcotics and Article 129 letter (a));
- b. The second category, namely acts in the form of producing, importing, exporting, or distributing narcotics and narcotic precursors (Article 113 for narcotics class I, Article 118 for narcotics class II, and Article 123 for narcotics class III and Article 129 letter (b)) ;
- c. The third category, namely acts in the form of offering to sell, sell, buy, receive, become intermediaries in buying and selling, exchanging, or handing over narcotics and narcotics precursors (Article 114 and Article 116 for class I narcotics, Article 119 and 121 for narcotics group II, Article 124 and Article 126 for class III narcotics and Article 129 letter (c));
- d. The fourth category, namely acts in the form of bringing, sending, transporting or transiting narcotics and narcotics precursors (Article 115 for narcotics class I, Article 120 for narcotics group I and Article 125 for narcotics group III and Article 129 letter (d)).

Law No. 35 of 2009 concerning Narcotics has regulated the types of sanctions given to narcotics crimes, namely as follows

- a. Criminal Acts of Parents/Guardians of Narcotics Addicts who are Underage (Article 128);
- b. Criminal Acts Committed by Corporations (Article 130);
- c. Crime for Persons Who Do Not Report Narcotics Crimes (Article 131);
- d. Crime of Attempt and Conspiracy to Commit the Crime of Narcotics and Precursors (Article 132);
- e. Crimes for Ordering, Giving, Persuading, Forcing with Violence, Deception, Persuading Children (Article 133);
- f. Crime for Narcotics Addicts Who Do Not Report (Article 134);
- g. Criminal Acts for Pharmaceutical Industry Management Not Carrying Out Their Obligations (Article 135);
- h. Criminal Acts against Results - Results of Criminal Acts of Narcotics and/or Narcotics Precursors (Article 137);
- i. Criminal Acts Against Persons Obstructing or Complicating the Investigation, Prosecution and Examination of Cases (Article 138);
- j. Criminal Acts for Masters or Flight Captains Who Do Not Implement the Provisions of Article 27 and Article 28 (Article 139);
- k. Criminal Acts for PPNS, Police Investigators, BNN Investigators Who Do Not Implement Provisions on Evidence (Article 140);
- l. Crime for the Head of the District Attorney's Office who does not implement the provisions of Article 91 Paragraph (1) (Article 141);
- m. Crime for Laboratory Staff Falsifying Test Results (Article 142);
- n. Criminal Acts for Witnesses Giving Incorrect Information (Article 143);
- o. Crime for Every Person Who Repeats a Criminal Act (Article 144);
- p. Crimes committed by Heads of Hospitals, Leaders of Institutes of Science, Leaders of the Pharmaceutical Industry, and Leaders of Pharmaceutical Traders (Article 147).

Functions and Roles of BNN Investigators According to Law no. 35 of 2009 concerning Narcotics Prevention and eradication of narcotics abuse and illicit traffic of narcotics and narcotics precursors is urgently needed. So that in Law No. 35 of 2009 it is necessary to establish a National Narcotics Agency, hereinafter referred to as BNN. BNN is a non-ministerial government agency that is under the President and is responsible to the President. BNN is domiciled in the national capital with a working area covering the entire territory of the Republic of Indonesia and has representatives in the provinces and districts/cities. Provincial BNN is domiciled in the provincial capital and district/city BNN is domiciled in the district/city capital, and district/city BNN is a vertical agency.

The BNN's duties and authorities in article 70 of Law No. 35 of 2009 concerning Narcotics are:

- a. Formulate and implement national policies regarding the prevention and eradication of the abuse and illicit traffic of Narcotics and Narcotics Precursors;
- b. Prevent and eradicate the abuse and illicit traffic of Narcotics and Narcotics Precursor; 13 Ibid., p. 297.



- c. Coordinate with the Head of the National Police of the Republic of Indonesia in preventing and eradicating the abuse and illicit traffic of Narcotics and Narcotics Precursors;
- d. Improving the capacity of medical rehabilitation institutions and social rehabilitation of Narcotics addicts, both organized by the government and the community;
- e. Empowering the community in preventing the abuse and illicit traffic of Narcotics and Narcotics Precursor;
- f. Monitor, direct, and enhance community activities in preventing the abuse and illicit traffic of Narcotics and Narcotics Precursor;
- g. Carry out bilateral and multilateral cooperation, both regionally and internationally, to prevent and eradicate the illicit traffic of Narcotics and Narcotics Precursors;
- h. Develop Narcotics and Narcotics Precursor laboratories;
- i. Carry out administrative inquiries and investigations into cases of abuse and illicit traffic of Narcotics and Narcotics Precursor; and
- j. Make an annual report regarding the implementation of duties and authorities

CONCLUSION

Based on the description above, the writer can draw the following conclusions:

1. The concept of criminal law policy includes criminal policy, criminal law policy and non-criminal policy (penal). Criminal policy is the science of crime prevention which can be carried out by combining the application of criminal means and prevention. Criminal law policy is an effort to overcome crime by using criminal means. While the non-criminal policy is a preventive measure before the occurrence of a crime. All of these policies have the ultimate goal of protecting the community in order to achieve social welfare.
2. The criminal law policy on the regulation of narcotics crimes in Indonesia includes criminal liability, actions that qualify as criminal acts and criminal sanctions. Criminal liability consists of accountability carried out by humans and corporations as subjects of criminal acts. Prohibited acts consist of distributing narcotics or narcotic precursors and abuse narcotics or narcotic precursors both for oneself and others. The sanctions contained in this law are criminal sanctions consisting of principal and additional criminal sanctions. Principal punishment consists of death penalty, imprisonment, confinement and fines. Meanwhile, additional penalties consist of revocation of business licenses and revocation of legal entity status for corporations. The sanctions for action given are treatment and rehabilitation for addicts or victims of narcotics abuse. This Narcotics Law regulates the functions and roles of the National Narcotics Agency as an agency for the prevention and eradication of narcotics and narcotics precursor crimes. BNN has a role and function as an investigator in the context of eradicating illicit traffic and abuse of narcotics and narcotics precursors in Indonesia.

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