

# Human Rights And Public Policy Implementation : Narcotics

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## ABSTRACT

This research discusses the relationship between Human Rights (HAM) and the implementation of public policies related to narcotics. In a global context, narcotics policies are often a source of controversy due to their impact on individual rights. This research evaluates how narcotics policies can affect basic rights such as the rights to life, liberty, health and justice. In some cases, harsh legal crackdowns on narcotics have led to human rights violations, such as arbitrary arrest and detention, as well as the use of force by security forces. On the other hand, some countries have tried alternative approaches, including decriminalization or legalization of narcotics, with the aim of reducing the negative impact on individuals. This research uses a normative approach. The conclusion from this research is that it is important to maintain a balance between efforts to prevent and handle narcotics with protecting individual human rights. Effective implementation of narcotics policies must take into account the basic rights of individuals and seek to reduce negative social impacts. This research underlines the need for a holistic and sustainable approach in dealing with narcotics issues without compromising human rights

**Keywords:** Human Rights, Policy, Narcotics

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## INTRODUCTION

Human rights are the moral and legal foundation that is the core of a just and civilized social order. As a universal moral basis, human rights recognize that every individual has inherent and inalienable worth and rights that must be respected and protected by governments and society. This concept, which has developed rapidly throughout the 20th century, plays an important role in shaping public policy around the world. However, when the implementation of public policies conflicts with human rights, the potential for serious conflict arises which tests the balance between the interests of society and the protection of individual rights (Donnelly & Whelan, 2020). Public policy, as the government's main instrument for regulating and influencing various aspects of people's lives, can cover various fields, such as economic, social, cultural, environmental and security. In this policy-making process, the government must consider the potential impact on human rights, as well as its obligations to protect and respect these rights in accordance with national and international law (Freeman, 2022).

This research aims to dig deeper into the important conversation about how the implementation of public policy can affect human rights, as well as the challenges and potential conflicts that arise as a result. We will explore a number of contemporary case studies illustrating the tensions between public policy and human rights, as well as the important role of the legal system in resolving such conflicts. As time goes by, societies and governments around the world increasingly recognize that striking a balance between effective public policy and the protection of human rights is a complex, but crucial task.

Careful and equitable policy implementation is a challenge, and resolving conflicts between public policy and human rights requires a deep understanding of the fundamental values that serve as the foundation for a civilized society. In this journey, this research will explore a variety of relevant issues, from

the use of force by security forces to debates around privacy, discrimination, and violations of individual rights in various public policy contexts. While these challenges can be complex and difficult, we will also discuss potential solutions and recommendations to maintain a better balance between effective public policy implementation and respect for human rights. In other words, we will reflect on how society and government can deal wisely with this complexity and ensure that the public policies implemented are a reflection of the fundamental values of humanity and justice that we all uphold.

## METHOD

This research uses a normative approach. A normative approach in research is a method or approach that aims to evaluate or analyze problems or issues by referring to certain norms, standards or values which are considered as guidelines or guidelines that should be followed. This approach is often used in fields such as ethics, law, philosophy and political science (Anggara & Abdillah, 2019).

## RESULT AND DISCUSSION

Indonesia, as the largest democratic country in the world with a diverse population, often faces challenges in maintaining a balance between the implementation of public policies and human rights. One striking case study is in the context of law enforcement and criminal justice policy. Indonesia has been known for its strict policy in eradicating narcotics. Crackdowns against drug offenders often result in the execution of drug convicts, which has generated international condemnation and controversy in terms of human rights (Iskandar & IK, 2021).

Human rights-related challenges in this context include:

- a. Right to Life: The most basic human right is the right to life. Execution may be considered a violation of this right, especially if carried out without due process of law. The right to life is a fundamental right and cannot be taken away under any circumstances. This means that there are no reasons or circumstances that can justify killing or taking someone's life illegally. Although the right to life is an inalienable right, in emergency situations that threaten the safety of the state, this right can be limited only if such measures are absolutely necessary, proportionate and in accordance with international law. This must always be carried out with full consideration of human rights (Sembel et al., 2022).
- b. Must Not Be Tortured or Punished in a Cruel, Inhuman, or Degrading Way: Law enforcement against narcotics has created a number of controversies related to the detention, interrogation, and treatment of suspects and prisoners. There were reports of torture, degrading treatment, and poor detention conditions that violated human rights. Certain methods of execution, such as firing squad shooting, may be considered cruel and inhumane treatment. Witnesses or individuals involved in situations where firing squads are used can also experience serious psychological trauma (Rambey, 2021).
- c. Right to Fair Process: If drug offenders are denied fair legal process, including access to competent counsel and objective examination of evidence, this may violate their right to fair legal process. Narcotics policies often result in inequities in punishment. People involved in drug crimes can receive harsher sentences compared to other crimes that may be more damaging or dangerous. This creates problems of unequal treatment that can violate human rights that require equal treatment before the law. Handling of narcotics offenders by law enforcement officers must also comply with the principles of non-discrimination. This means that legal action should not be based on personal characteristics such as race, gender, religion or social background (Fikri et al., 2022).
- d. Right to Privacy: Many states allow searches of individuals or their homes in drug law enforcement efforts. However, debate arises regarding the limits of individual privacy. Some argue that overly invasive searches can violate individuals' privacy rights and potentially lead to abuse of power by law enforcement officials. Even though drug offenders may have committed unlawful acts by being involved in the distribution or abuse of narcotics, their right to privacy is still recognized and must be respected. The right to privacy also includes the right of individuals to keep their medical and health information confidential. This is relevant in the context of narcotics because sometimes drug offenders may seek medical treatment or rehabilitation, which must be kept confidential (Zulkarnain et al., 2023).

Narcotics punishment in Indonesia is regulated by Law Number 35 of 2009 concerning Narcotics. There are several penalties that may be imposed for narcotics offenses in Indonesia: Imprisonment for people proven to possess, control or distribute narcotics can be punished with imprisonment. Prison sentences can vary depending on the amount of narcotics found and the type of narcotics involved. In Indonesia, the death penalty is still enforced for certain narcotics offenders, especially those involved in distributing large quantities of narcotics. Apart from imprisonment, narcotics offenders can also be subject to fines, the amount of which varies depending on various factors. Sometimes, drug offenders who are caught with relatively small amounts of narcotics can be directed to a rehabilitation program as an alternative or addition to criminal punishment. After serving their sentence, narcotics offenders can be monitored by the authorities for a certain period of time (Iskandar & IK, 2021).

Peran hukum dalam menyelesaikan konflik antara kebijakan narkoba dan hak asasi manusia (HAM) adalah krusial. Hukum, baik pada tingkat nasional maupun internasional, dapat berfungsi sebagai kerangka kerja yang penting untuk mencapai keseimbangan antara upaya pemberantasan narkoba dan penghormatan terhadap hak asasi manusia. Berikut adalah beberapa peran utama hukum dalam menyelesaikan konflik ini:

- a. Menentukan Batasan dan Prinsip-prinsip yang Jelas: Hukum dapat membantu menetapkan batasan yang jelas tentang apa yang diperbolehkan dan apa yang tidak diperbolehkan dalam penegakan kebijakan narkoba. Ini mencakup pembuatan undang-undang narkoba yang mendefinisikan jenis-jenis narkoba, sanksi yang dapat dikenakan, dan prosedur hukum yang harus diikuti. Hukum juga dapat menetapkan prinsip-prinsip yang harus dihormati dalam upaya penegakan hukum narkoba, seperti hak atas privasi dan perlindungan terhadap penyiksaan (Gaol, 2019).
- b. Perlindungan Hak Asasi Manusia dalam Sistem Hukum: Hukum juga berperan dalam melindungi hak asasi manusia dalam sistem hukum. Ini termasuk hak atas proses hukum yang adil, hak atas perwakilan hukum, dan hak untuk tidak disiksa atau diperlakukan secara merendahkan martabat. Hukum juga melindungi hak atas hidup, yang relevan dalam konteks kebijakan eksekusi mati terhadap narapidana narkoba (Suryandari & Soerachmat, 2019).
- c. Pengawasan Terhadap Penegakan Hukum: Hukum dapat menciptakan mekanisme pengawasan terhadap penegakan hukum narkoba. Ini mencakup pengadilan yang independen yang dapat menguji keberatan terhadap penegakan hukum yang tidak pantas atau pelanggaran HAM. Hukum juga dapat memberikan kekuasaan kepada badan pengawas atau ombudsman untuk menginvestigasi keluhan terkait penegakan hukum narkoba (Fithri, 2020).
- d. Pemulihan dan Rehabilitasi: Hukum dapat memberikan kerangka kerja untuk program pemulihan dan rehabilitasi bagi individu yang terlibat dalam penyalahgunaan narkoba. Ini membantu dalam melindungi hak individu untuk mendapatkan perawatan kesehatan yang memadai dan memperlakukan penyalahgunaan narkoba sebagai masalah kesehatan masyarakat daripada hanya sebagai tindak kriminal (Mintawati & Budiman, 2021).
- e. Hubungan dengan Hukum Internasional: Hukum internasional juga berperan penting dalam mengatur konflik antara kebijakan narkoba dan HAM. Negara-negara, termasuk Indonesia, terikat oleh berbagai perjanjian dan konvensi internasional yang mengatur hak asasi manusia. Hukum internasional dapat menjadi sumber norma dan prinsip yang digunakan untuk mengevaluasi kebijakan narkoba (Hidayatun & Widowaty, 2020).
- f. Advokasi dan Pendidikan Hukum: Hukum juga memungkinkan advokasi dan pendidikan hukum untuk meningkatkan pemahaman tentang hak asasi manusia dan implikasinya dalam konteks kebijakan narkoba. Ini melibatkan advokasi oleh organisasi hak asasi manusia, pelatihan aparat penegak hukum tentang hak asasi manusia, dan kampanye pendidikan publik (Dhamarjanty dkk., 2022).

It is important to remember that efforts to resolve the conflict between drug policy and human rights are an ongoing and complex endeavor. The law is one tool that can be used to achieve a better balance between effective drug policy enforcement and respect for human rights. However, the law must be applied with transparency, accountability and fairness to ensure optimal protection of individual rights.

There are several solutions used by other countries in regulating narcotics policies that we can consider adopting. The first is to shift the focus from a primarily punitive approach towards narcotics users

to an approach that is more oriented towards public health. This approach aims to reduce the negative impact of narcotics on individuals and society, while simultaneously addressing the root causes of underlying health problems. This approach can be carried out by focusing on preventing narcotics use, especially among teenagers, by providing education programs and greater awareness about the risks of narcotics. Diverting drug users from crime to effective treatment and rehabilitation programs. It helps users to overcome their addiction. Provide users with accurate information about narcotics, including side effects and associated health risks. Providing counseling and support services for users who want to stop using narcotics. Providing counseling and support services for users who want to stop using narcotics. As well as reducing or eliminating legal sanctions for non-violent narcotics users and diverting legal attention to smugglers and large dealers. (Rouhani et al., 2022).

Several countries have also adopted decriminalization policies against narcotics use. The policy of decriminalization of narcotics use is a different approach from total prohibition and criminal punishment for narcotics users. In the context of the decriminalization policy, the use of narcotics for personal consumption is considered an administrative or minor violation, not a criminal act that can result in detention or imprisonment. This approach aims to reduce the negative impacts of harsh law enforcement on narcotics users, such as excessive detention, imprisonment, and stigmatism, while still maintaining control over dangerous narcotics. Decriminalization policies usually focus more on narcotics users than on dealers or producers. This allows law enforcement officials to prioritize tackling narcotics trafficking and related crimes rather than targeting individual users. By replacing criminal penalties with administrative sanctions or treatment, decriminalization policies seek to reduce the number of narcotics users who are imprisoned. This can help avoid the negative effects of excessive detention and imprisonment on drug offenders. This policy can also help reduce stigma towards drug users and allow them to seek help without fear of criminal consequences (Fritz, 2021). It is important to remember that decriminalization policies are not a magic solution that fits all countries or all situations. This approach can be successful if implemented carefully, taking into account the unique cultural, social, and legal factors of each country. Additionally, decriminalization policies should always be linked to strong treatment, rehabilitation, and education programs to ensure that individuals involved in drug abuse get the support they need to overcome their problems.

Several countries have also adopted policies to legalize certain narcotics, such as marijuana, with strict regulations. Drug legalization is a much more radical approach than decriminalization. In the context of legalization, certain narcotics are legalized and regulated by the government. This means that previously illegal narcotics become legal to use, produce, distribute, and sell, but there are often strict regulations overseeing all aspects of legalized narcotics. Controlled legalization can give the government more control over the supply and distribution of narcotics, reduce the harmful effects of uncontrolled narcotics, and provide a potential source of tax revenue. Legalization of narcotics is usually accompanied by strict regulations governing the production, distribution and sale of narcotics. The aim is to ensure that legalized narcotics are only available in limited quantities, with controlled quality, and only to people who meet certain requirements, such as setting a minimum age limit (Estevez et al., 2019).

One of the main reasons behind legalization is to change the handling of narcotics from a criminal approach to a public health approach. Legalization seeks to reduce the negative impacts of narcotics by providing access to treatment, rehabilitation and education about narcotics. Legalization of narcotics can generate new sources of tax revenue for the government. This tax revenue can be used to fund health, education, or other programs that benefit society. Just like decriminalization, legalization also requires ongoing evaluation to monitor the impact of this policy and make improvements if necessary. This is important to ensure that the legalization of narcotics continues to achieve public health goals and reducing negative impacts (Rieder, 2021).

However, it is important to remember that the legalization of narcotics is a highly controversial issue and varies throughout the world. Any country considering this step must consider the unique cultural, social,

economic, and legal factors of its society. In addition, the experience of countries that have previously legalized narcotics, such as Uruguay and several states in the United States, can provide insight into the positive and negative impacts that may arise from the legalization of narcotics (Pratama, 2020).

Ensuring that there is independent supervision of law enforcement officers in enforcing narcotics laws is no less important. Institutions such as the ombudsman or human rights commission can monitor law enforcement actions and report human rights violations to the public and legal institutions. However, unfortunately, supervision of narcotics is not optimal, we often hear about the distribution of narcotics in prisons. Cases of narcotics trafficking in correctional institutions (Lapas) are a serious problem that occurs in various countries. These cases include the smuggling, storage, and distribution of narcotics among prisoners or detainees within the criminal justice system. There were cases where prison staff, including security officers and administrative officers, were involved in smuggling narcotics into prisons. They can smuggle narcotics in various ways, such as hiding them in food or delivery packages. Several cases involve convicts or detainees who have narcotics distribution networks within prisons. They use their position to distribute narcotics to fellow prisoners or inmates (Pratama, 2020).

In other cases, security officers or authorities conducting routine inspections in prisons find narcotics hidden in cells, waiting rooms, or other areas. Cases like these create major challenges for the criminal justice system and correctional institutions. This can threaten the health and safety of prisoners, disrupt order in prisons, and damage the integrity of correctional officers who are not involved. Therefore, prevention efforts, strict supervision and legal action against perpetrators are very important. Authorities need to work with independent monitoring agencies and human rights organizations to combat narcotics trafficking in prisons. In addition, rehabilitation, treatment and narcotics education programs are also required as is available to inmates or detainees who need help to overcome drug abuse problems. With these steps, it is hoped that cases of narcotics distribution in prisons can be reduced and the community will be safer from the negative impacts of narcotics (Iskandar & IK, 2021).

Given that narcotics is a global problem, close international cooperation is essential. Countries must collaborate in sharing information, experience and resources to address cross-border narcotics trafficking. Countries can share information and intelligence about narcotics production, trade, and distribution networks. This allows countries to better understand how narcotics move across borders and who is responsible. Countries can cooperate in enforcing cross-border narcotics laws. This includes sharing information about international narcotics networks, organizing joint operations to uncover narcotics trafficking, and joint pursuit of key players in the narcotics trade. Countries can work together in efforts to stop narcotics production in their home countries. This could involve technical assistance and resources for countries struggling to overcome illegal narcotics production (Bahaduri & Susanti, 2022).

Organizations such as the United Nations, Interpol, and the World Narcotics Agency (UNODC) play an important role in facilitating international collaboration in tackling narcotics. Countries can work with these organizations to coordinate their efforts. Capable countries can also provide international assistance to countries struggling to overcome narcotics problems. This could take the form of technical, financial, or human resources assistance to help countries strengthen their capacity to tackle narcotics. Effective international collaboration in overcoming narcotics requires a joint commitment from various countries to work together to face this problem as a global challenge. This is a long-term effort that requires close coordination, communication and cooperation between countries and international organizations to achieve the common goal of reducing the negative impact of narcotics on global society (Salasmita et al., 2022).

Additionally, involving civil society, non-governmental organizations, health groups, and other interest groups in the formulation of drug policy can help ensure that the policy reflects a variety of perspectives and needs. Non-governmental organizations (NGOs), advocacy groups, and other civil society institutions play an important role in ensuring that community voices are heard in the policy formulation process. They can provide community perspective, raise concerns, and provide constructive input. Public health groups, including public health agencies, hospitals, and medical practitioners, have a major stake in

the formulation of narcotics policy. They focus on a public health approach to addressing the problem of drug abuse. Narcotics users are the parties most affected by narcotics policies. Involving them in policy formulation can help understand the challenges they face and ensure that policies reflect their needs, including access to care and rehabilitation. The pharmaceutical industry has an interest in the production and distribution of drugs that can be used for narcotics-related treatment and care. They can provide perspective on the regulation of narcotic-related drugs. Higher education and research institutions can provide insights and scientific research that can support the formulation of data-based narcotics policies. Law enforcement agencies and the criminal justice system are also interested parties, as they are responsible for enforcing narcotics laws. Involving them in policy formulation can help ensure effective coordination between law and policy (Ichwani et al., 2022).

Ultimately striking a balance between effective drug law enforcement and respect for human rights is a challenge, but a more focused approach to public health and human rights protection can help achieve this goal. Balanced and data-based policies can help reduce the negative impact of narcotics and also protect human rights.

## CONCLUSION

Public policies related to narcotics often create dilemmas in the context of human rights. Efforts to control narcotics trafficking often involve harsh measures such as arrests, trials, and harsh sentences, which can have a negative impact on individual rights. In implementing narcotics policy, it is important to maintain a balance between efforts to prevent and deal with narcotics and protecting individual human rights. These include the right to justice, the right to adequate medical care, and the right to privacy. Several countries have taken different approaches to narcotics policy. Some countries have focused on decriminalizing or legalizing soft drugs as a way to reduce negative impacts on human rights. Meanwhile, other countries prioritize strict legal enforcement. It is important to continue to study and evaluate the impact of narcotics policies on human rights. Effective policy implementation must take into account the protection of individual human rights and seek to reduce the social damage that may arise from drug abuse. Public policies regarding narcotics must always consider and respect individual human rights. A holistic and sustainable approach must be taken to address the drug problem without undermining the basic rights of individuals.

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