

# Legal Policy On Narcotic Drugs And Psychotropics In Indonesia

Sri Riski<sup>1</sup>, Siti Khoiriah<sup>2</sup>

<sup>1</sup>Faculty of Law, Universitas Lampung, Jalan Prof. Dr. Sumantri Brojonegoro No. 1, Gedong Meneng, Rajabasa, Kota Bandar Lampung, Lampung, Indonesia (35145)

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\*Correspondent Email:  
sri.riski@fh.unila.ac.id



**Abstract:** Legal policy is a tool used by state administrators to shape the national legal system. Building a legal policy that protects the public from the abuse of narcotics and psychotropic substances is crucial. In 2025, the Narcotics and Psychotropics Bill was included in the National Legislation Program (Prolegnas) to be discussed by the House of Representatives (DPR) and the government. The legal policy of the Draft Law on Narcotics and Psychotropics aims to integrate and update the handling of narcotics and psychotropic substances within a more comprehensive legislative framework, with a focus on health and rehabilitation.

**Keywords:** Legal policy; narcotics and psychotropic; and legislation.

## 1.

### INTRODUCTION

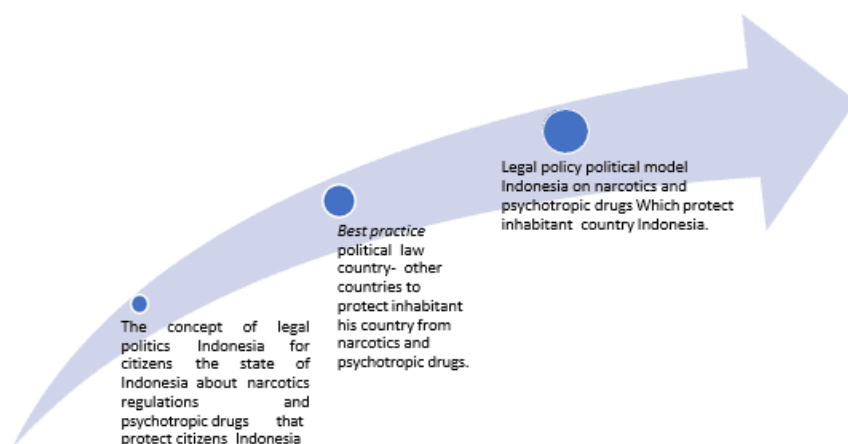
Legal policy refers to a state's policy to achieve its goals through the creation of legislation. Legal status means that laws function to resolve state problems. Therefore, the state strives to make and set legislation so that its objective is achieved. Legal policy needs to be adapted to the spirit of the nation ( *volkgeist* ) of the Indonesian people, because there is an organic relationship between law and the character of a nation. The benefits of studying legal policy in Indonesia include the realization of national ideals as stated in the state ideology, namely Pancasila and the Constitution of the Republic of Indonesia 1945, because legal policy is a tool and means used by the government to form a national legal system.

Drug trafficking is a transnational crime because it involves the laws of various countries. Drug trafficking is a crime that can occur both

domestically and internationally. Therefore, in handling it, somebody must notice not only law and regulations in force in Indonesia, but also laws and regulations recognized internationally or by other countries, including international agreements signed between Indonesia and other countries. <sup>1</sup>

Drug abuse has detrimental social impacts. This includes increasing the number of crimes, disturbing social order, damaged social relationships, and a decline in the quality of life. Drug abuse is a serious problem for any country. The resulting problems have a profound impact on every aspect of human life.

## 2. MATERIALS AND METHODS



This research is a socio-legal research that combines approaches in study law doctrinal. <sup>17</sup> Studies socio-legal do Textual studies, articles in laws and regulations and policies can be analyzed critically and their meaning and implications for legal subjects (including marginalized groups) can be explained. As for source data obtained from studies literature, with method reading, citing and analyzing library materials can be in the form of statutory regulations , decision institution justice, decisions government

### 3. Result and Discussions

#### 3.1.1 Indonesia face challenge complex in handling narcotics and psychotropic drugs

Indonesia faces complex challenges in addressing narcotics and psychotropic substances, which pose both public-health and legal threats. Their abuse endangers the younger generation, national stability, and socioeconomic development. Because of this, analyzing the legal policies governing narcotics and psychotropics becomes essential. Legal policy shapes state direction and strategy, as emphasized by Soedarto, who views it as state authority to create regulations reflecting societal needs and aspirations. Indonesia's legal framework primarily Law No. 35/2009 on Narcotics and Law No. 5/1997 on Psychotropics sets classifications, controls, and sanctions, though their implementation effectiveness remains debated. While narcotics circulation is legally permissible for medical and research purposes, widespread misuse continues, turning illegal distribution into a profitable business that endangers youths physically and mentally. A key issue is balancing repressive law enforcement with rehabilitative

Indonesia, legal expert doctrine/opinion including utilizing dictionaries, encyclopedias related to the substance of the research.

Analysis Which used analysis law with method do Legal interpretation. The interpretations used include grammatical, historical, philosophical, sociological, and comparative interpretations. The results of the legal analysis are then presented descriptively and qualitatively using deductive conclusions by comparing the standards for recognizing indigenous communities in regional regulations in Indonesia.

approaches aimed at restoring addicts. In addition, transnational cooperation is crucial, as drug trafficking involves cross-border networks. This study therefore examines philosophical foundations, objectives, strategies, and implementation of Indonesia's legal policy on narcotics and psychotropics to support more effective and equitable regulation.

Problems crucial in enforcement law to action criminal narcotics is difficulty track existence criminal narcotics. Matter This become an obstacle significant in effort eradication narcotics throughout world, Due to the delay in the process of arrests, network disclosures, and confiscation of evidence, the difficulty in tracing the perpetrator's whereabouts is a serious problem in enforcement law to action criminal narcotics international. Difficulty tracking existence target hinder process eradication crime so that for perpetrator can Keep going operate his actions. For overcome it Therefore, comprehensive efforts are needed, including technological advancements, human resource capacity development within law enforcement agencies, strengthening cooperation between state institutions, and a sustainable prevention approach. With these efforts, it is hoped that law enforcement in any country can eradicate

narcotics crimes and become more effective and efficient in combating international drug trafficking and protecting the public.

Indonesia has Law Number 5 of 1997 concerning Psychotropics and Law Number 22 of 1997 concerning Narcotics which was later updated with Law Number 35 of 2009 concerning Narcotics is the current legislation that regulates narcotics in Indonesia. This is an implementation of the United Nations Convention Number 7 of 1997 concerning the Ratification of *the United Nations Convention on the Eradication of Illegal Narcotics and Psychotropics 1988* (also known as *the United Nations Convention Against Illegal Narcotic Drugs and Psychotropic Substances 1988*). Law No. 35 of 2009 concerning Narcotics contains regulations regarding penalties for drug violations committed in Indonesia.

### 3.1.2 Political Law According to The Experts

Historically, the term “politics” derives from Greek linked to state affairs, citizenship, and governance. Over time, it has come to refer to state organization and decision-making. Johan Kaspar Bluntschli describes politics as the science of the state, including concepts of power, policy, and resource allocation. Aristotle views law as binding rules that regulate society and judges, distinguishing it from the constitution, which guides judicial conduct. Understanding politics and law provides the basis for grasping legal politics. In Dutch, “politiek” aligns with “beleid” (policy), meaning that legal politics is essentially legal policy a set of concepts guiding legal action and implementation.

- a) Several legal scholars define legal politics differently.

**Padmo Wahjono** sees legal politics as fundamental policies shaping the direction, form, and content of future laws, grounded in values aimed at human welfare.

- b) **Teuku Mohammad Radhie** defines it as the state authorities’ declaration regarding existing laws (*ius constitutum*) and planned legal development (*ius constituendum*), showing continuity between present and future law.

- c) **Van Apeldorn** expands legal politics to the interaction between law and political systems, emphasizing the role of law in shaping policy and social order.

Overall, legal politics functions as the policy foundation determining how laws are designed to uphold societal welfare. It reflects current governmental will while shaping future legal development. At the same time, it serves as a field linking legal rules with political dynamics to ensure

that law fulfills its role in creating justice, order, and social stability.

### 3.1.3 Draft Political Law

J. Barent likens the relationship between constitutional law and political science to a skeleton and its flesh: constitutional law regulates the structure of the state, while political science examines how power is formed and used. In practice, political actors do not always follow legal pathways, making politics broader than constitutional law. Political science focuses on social dynamics and power behavior, while constitutional law focuses on constitutional norms. This distinction shows that constitutional law studies the framework of authority, whereas political science analyzes how power operates in reality.

The close connection between law and politics gives rise to legal politics as a discipline. Legal politics explains how laws are drafted through political processes, meaning every law is both a legal and political product. It is legal because it is created by authorized institutions, but political because it reflects negotiations among political actors. Therefore, legal politics bridges the normative rules of constitutional law with the political realities behind policy formation. From this relationship, legal politics can be defined as policy foundations that guide the design of law based on societal values. It reflects the will of those in power in determining valid regulations and the future direction of legal development. Legal politics also serves as a study linking law with political dynamics and the role of law in shaping social structures, ensuring that law functions effectively in creating justice and order. The core object of legal politics is state policy manifested through legislation past, present, and future (*ius constitutum* and *ius constituendum*). Its study is practical, not merely theoretical, because legal politics provides direction for policymaking. Every legal product is evidence of political law in action. Syaukani and Thohari identify its scope:

1. Exploring societal values for legal policy;
2. Debating and drafting laws;
3. The role of state authorities in shaping policy;
4. Legislation containing legal-political content;
5. Factors influencing legal direction;
6. Implementation of laws as political policy in practice.

Understanding these aspects clarifies the goals and benefits of legal policy. Legal policy aims to achieve justice, order, and public welfare. Its objectives include aligning national law with Pancasila, protecting citizens, advancing welfare, upholding rights and unity, and realizing democracy

and democracy. It must reflect national ideals and support social justice and harmony. Legal policy has significant benefits: it supports social justice, maintains political-legal stability, harmonizes national law with global developments, and strengthens economic growth through a conducive legal environment. Thus, legal politics is both a normative foundation and a strategic tool for national progress. Law and national development are inseparable. Satjipto Rahardjo highlights law's functions: supporting development through institutions, protecting results of development, promoting justice, legitimizing social change, reforming systems, resolving disputes, and regulating governmental power. If legal policy is weak, development will falter; if it is just and effective, national welfare will progress sustainably.

### 3.1.4 International Law Instruments

#### 1) 1961 Single Convention and 1972 Protocol

This convention is the foundation of global narcotics control, restricting narcotic use to medical and scientific purposes. It requires states to regulate production, trade, and reporting to the INCB. Indonesia's ratification through Law No. 8/1976 means its national laws such as Law No. 35/2009 must reflect these obligations.

#### 2) 1971 Psychotropics Convention

Created to address psychoactive substances not covered in 1961, this convention allows new substances to be added to control schedules. It limits production and distribution to medical and scientific uses, requiring prescriptions for many listed substances. Its aim is to protect public health while preventing uncontrolled circulation.

#### 3) 1988 UN Convention Against Illicit Traffic in Narcotics Drugs and Psychotropic Substances

This convention strengthens global cooperation by criminalizing money laundering, precursor trafficking, and enabling asset confiscation. It requires states to impose effective penalties, support extradition, exchange information, and provide mutual legal assistance. It is one of the most comprehensive legal frameworks for combating transnational drug crime.

### 3.1.5 Approach Rehabilitation, Restorative Justice & Human Rights

Indonesia's narcotics policy has shifted from a strictly punitive model toward a more humanist approach centered on rehabilitation and human rights. Research shows that restorative justice is increasingly viewed as a humane alternative for addicts who experience medical and psychological dependency. Prosecutor's Regulation No. 18/2021 strengthens rehabilitation pathways, although legal

ambiguities remain particularly conflicting norms in Articles 103 and 54 of the Narcotics Law, which create uncertainty over whether addicts must be rehabilitated or may still be imprisoned. Studies also note that stigma, limited facilities, and inconsistent legal interpretation often cause punishment to dominate over rehabilitation.

### 3.1.6 National Legal Framework

#### 1. Law Number 35 of 2009 on Narcotics

Law No. 35/2009 replaces the 1997 Narcotics Law due to the increasingly transnational and technologically advanced nature of drug crimes. It incorporates Indonesia's obligations under the 1961 Single Convention, its 1972 Protocol, and the 1988 Convention. However, scholars criticize its implementation: the distinction between "addicts/users" and "distributors" is often unclear, leading many addicts to be punished instead of rehabilitated. The use of grammage thresholds also remains controversial because it results in inconsistent judicial interpretation.

#### 2. Law Number 5 of 1997 on Psychotropics

This law regulates medical use, research, and distribution of psychotropics. However, it is considered outdated because it does not adequately accommodate new psychoactive substances (NPS) and does not align with rapid changes in drug trends. Ambiguities regarding the definition of "addict" and "victim of abuse" contribute to inconsistent legal practice. Grammage-based punishment is also criticized for not reflecting a risk-based or harm-based approach. These gaps encourage calls for reform to make regulations more adaptive and evidence-based.

### 3.7 Positive Impacts of Regulatory Adjustments

Revising narcotics and psychotropic regulations would strengthen law enforcement clarity, ensure better human rights protection by distinguishing victims from perpetrators, and improve international cooperation through extradition and intelligence exchange. It would also increase public confidence, reduce recidivism through rehabilitation-oriented policies, and ensure Indonesia's legal framework remains relevant and protective of society.

### 3.8 Regulation of Narcotics and Psychotropics in Indonesia

#### 1. Classification, Circulation, and Criminal Sanctions

Law No. 35/2009 strictly regulates narcotics distribution, with heavy penalties ranging from long imprisonment to life sentences or the death penalty for producing, distributing, or trafficking Class I substances such as cannabis, heroin, and methamphetamine. Class II and III narcotics carry slightly lighter penalties but still include substantial

imprisonment and fines. Similarly, Law No. 5/1997 provides severe sanctions for misuse of Class I psychotropics, including long imprisonment and significant fines. The state treats drug distribution as a serious crime due to its danger to public health, national security, and youth well-being.

### 3.9 Prevention, Rehabilitation, and Eradication Efforts

Law No. 35/2009 assigns the National Narcotics Agency (BNN) a central role in prevention, rehabilitation, community empowerment, and eradication. Presidential Instruction No. 2/2020 further directs ministries, police, prosecutors, military, and regional governments to coordinate national drug control efforts. Prevention is divided into primary, secondary, and tertiary stages; rehabilitation focuses on restoring an addict's physical, psychological, and social health; and eradication is carried out by police, prosecutors, BNN, immigration, and customs. BNN's investigative authority at multiple levels strengthens comprehensive anti-drug enforcement nation wide.

In 2025, the Narcotics and Psychotropics Bill will be included in the list of 8 Bills that will be included in the Prolegnas, namely: <sup>2</sup>

1. bill Narcotics And Psychotropics
2. bill Law Civil Procedure
3. bill Security And Resilience Cyber
4. bill Change Law 37/2004 (Bankruptcy And Delay Debt Payment Obligation)
5. bill Guarantee Moving Objects
6. bill Clemency, Amnesty, Abolition, and Rehabilitation
7. bill Implementation Criminal Dead
8. bill Adjustment Provision Criminal in Law and Regional Regulations

### 4. CONCLUSIONS

The effectiveness of narcotics and psychotropic drug management in Indonesia is greatly influenced by the commitment of all parties to implementing a coordinated and responsive strategy. Collaboration between the government, apparatus enforcer law, And public become pillar main so that prevention efforts, rehabilitation, as well as eradication truly walk in a way In addition, adapting policies to increasingly complex crime dynamics is also a crucial factor in ensuring maximum protection for the public.

With a strong legal foundation and the active involvement of all elements of the nation, opportunity For pressing rate circulation as well as abuse narcotics and psychotropic drugs are becoming increasingly open. This ongoing effort not

only creates a healthier and safer environment, but also strengthens resilience. social for the sake of time front generation Indonesia Which free from threat hazardous substances

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