

COMPARISON OF POLICY FORMULATION ON CRIMINAL LEGAL SANCTIONS FOR NARCOTICS CRIMES IN INDONESIA AND MADAGASCAR

Andrianantenaina Fanirintsoa Aime 

Magister of Law, Universitas Jendral Soedirman
Purwokerto

Email: andrianantenaina.aime@mhs.unsoed.ac.id

Abstract

Narcotics crimes are on the verge of criminal acts that endanger the future of all Indonesian society and also damage education in Madagascar. This research aims to determine the policy for formulating criminal sanctions against drug users in Indonesia and Madagascar and to find out what aspects of punishment need to be prioritized for perpetrators of narcotics crimes on both sides. The author uses research methods with normative juridical legal research. The results of the research show that the effectiveness of law enforcement against criminal acts of abuse and illicit trafficking of narcotics in Indonesia and Madagascar is less effective. This is proven by the relatively short prison sentences handed down to perpetrators of narcotics abuse and distribution. Based on data collection from literature studies and case studies, perpetrators of drug abuse and illicit trafficking in Indonesia and Madagascar have increased from year to year. Efforts to various criminal sanctions objectives such as "Crime Reduction, Crime Suppression, Crime Prevention and Crime Control" have been carried out by the governments of Indonesia and Madagascar, both from the application of criminal sanctions and from the application of criminal sanctions. Law enforcement is already underway. Both by carrying out urine examination activities, counseling and seminars regarding the impacts and dangers of narcotics abuse as well as routine operations and special operations carried out by the police in both



countries. This is proven by the reduction in criminal acts of abuse and distribution of narcotics originating from Indonesia and the majority of perpetrators coming from Madagascar.

KEYWORDS

Criminal sanctions, narcotics crimes, criminal system.

Introduction

Progress in human life today often experiences some damage due to behavior that is detrimental to the nation's mental and intelligence. This takes the form of crimes in the form of narcotics crimes and also acts of misuse of toxic substances. These two actions are a phenomenon that we now consider common, but their impact on generations and the future of the children of Indonesia and Madagascar is very large. Each country's criminal legal system reflects its own history, culture and social development. Indonesia and Madagascar, two countries with different colonial histories, show major differences in criminal sanctions formulation policies. Madagascar, which is a former French colony, applies a civil law system that is influenced by French legal traditions. The types of criminal sanctions that apply in this country include imprisonment or forced labor for certain violations, fines or restitution to victims, and social laws involving community work. Even though the death penalty is still legal, Madagascar has implemented a moratorium since 1958, so in practice Madagascar is a country that does not implement the death penalty.

Law Number 35 of 2009 on Narcotics expands in terms of standards, material breadth, and the possibility of increased criminal penalties. This broader scope is attributable not only to the considerations mentioned above, but also to the growth of demands and the fact that the values and norms in the applicable laws are no longer adequate as a method of preventing and eradicating narcotic misuse and illicit trafficking. According to survey statistics from the National Narcotics Agency (BNN) and the University of Indonesia Health Research Centre, drug users account for 1.5% of the population or approximately 3,256,000 to 4 million persons.

Approximately 800,000 addicts use shared syringes to take narcotics, which has a negative consequence

Narcotics crime is a criminal conduct that has gained "worldwide apprehension" or the attention of all governments in the globe, because narcotics have the potential to kill a generation of people in a country. Narcotics misuse promotes illicit trafficking, whereas illicit narcotics trafficking causes abuse to proliferate and take on an international dimension. As a result, efforts are required to prevent and overcome narcotics misuse, as well as measures to abolish illicit trafficking, given the advancements in communication, knowledge, and transportation in the current period of globalisation. Essentially, drug trafficking in Indonesia is legal.

The extensive distribution of narcotics must be rigorously regulated by law enforcement to prevent it from spreading to the millennial generation. Because, as we all know, the benefits of opioids are extremely negative and are frequently exploited for undesired purposes. On the other hand, developments in technology, information, and communication can be used to extend it to parts of Indonesia that have never been touched by narcotics before, and over time, they will be reached by narcotics circulation and may even become central distribution points. Narcotics usage in Indonesia's major cities appears to use additional strategies aimed at the millennial or younger population. This is obviously disturbing and concerning, because the millennial generation represents hope for all Indonesians, as well as the nation and state, to maintain the continuation of national sovereignty in a respectful manner. The impacts of drug usage are thought to have a significant impact on both individuals and society.³

In contrast to Indonesia, narcotics crimes have expanded significantly in Madagascar, particularly in the capital city of Antananarivo. Many narcotics users among youths and students suffer from undesirable mental health consequences and opt to use drugs despite the hazards. The daily lives of drugs users jeopardise the lives of society and the offenders of

crimes, notably death or violations of the law against the requirements of the penal code as regulated in Law Number 97-039 dated November 4, 1997, addressing narcotics. This law intends to reduce narcotics production, sales, and distribution while also addressing public health and safety concerns.

National legislation, which incorporates international drug control conventions, governs Madagascar's legal approach to drugs. The United Nations Single Convention on Narcotic Drugs (1961) and other relevant treaties are ratified by the nation. According to this agreement, Madagascar must put in place extensive measures to stop illegal drug trafficking, including criminal penalties. In Madagascar, unique laws pertaining to drugs and the Malagasy Criminal Code regulate the criminal penalties for offences involving drugs. Depending on how serious the offence was, these penalties might range from jail time and monetary fines to harsher punishments for drug smugglers. Depending on the type of offence, the legal system imposes corresponding punishments for users, small-scale dealers, and large-scale traffickers. as stated in Article 98, threatening to imprison them for five to ten years and penalise them between 10,000 and 2,000,000 Ariary, or just one of these two punishments.

Because it is highly likely that the lives of teenagers who commit drug-related crimes will be cut short if the sanctions policy is not strict, law enforcement in Madagascar is less effective at enforcing the harshness of criminal sanctions when dealing with cases against drug offenders. In every nation, this crime will continue to rise. The problem with this approach is that if the penalties are too small, the incidence will recur.

Obtaining appropriate results that do not depart from the title of the discussion, the authors formulate the main issues to be discussed as follows:

1. What is the policy for formulating criminal legal sanctions for perpetrators of narcotics crimes in Madagascar and Indonesia?
2. What is the form of imposing criminal legal sanctions on perpetrators of narcotics crimes in Madagascar and Indonesia?

Methods

The research method is a strategy for gathering actual facts about the subject under consideration. In writing this journal, the author employs a qualitative research approach based on direct data sources, as well as a normative juridical type of legal research based on data collection techniques carried out through case and library studies conducted in law libraries in Indonesia and Madagascar. The data analysis strategy entails collecting information by evaluating library materials or secondary data, which includes primary, secondary, and tertiary legal materials.

Result and Discussion

Based on Lawrence M. Friedman's idea, a legal system consists of three components: (1) structure, (2) substance, and (3) legal culture. The framework refers to the entire law enforcement system, including its infrastructure. So it consists of the police and their officers; the prosecutor's office and its prosecutors; law companies and their attorneys; and courts and their judges. Substance refers to the sum of legal principles, conventions, and regulations, both written and unwritten, including judicial decisions. Legal culture refers to the habits, opinions, methods of thinking, and acting of both law enforcement officers and members of the general public. Efforts to create the supremacy of law are not only the right of our State institutions with their distribution of powers that is characterised by the principle of checks and balances in the implementation of their government, but also the right of every citizen to participate in efforts to create the supremacy of law in our country. The importance of legal culture in supporting a legal system, as Friedman said, is that substance and apparatus alone are not enough for the legal system to function.

Sentencing is an important component of the criminal justice system in all countries, including Madagascar. The purpose of punishment is closely related to a country's criminal law policy, which is intended to

provide justice, maintain order, and carry out a rehabilitative and preventive role. The theoretical framework will explain the various theories that underlie the objectives of punishment in Madagascar and Indonesia in applying the theory of punishment because the two countries have similarities in implementing a legal system, namely the civil law system inherited from the former European continental colonialism which will take into account the legal system, social conditions and rehabilitation purposes.

According to Article 54 of Narcotics Law Number 35 of 2009, "Drug addicts and victims of drug addiction must undergo medical rehabilitation and social rehabilitation". A "victim of drug abuse" is someone who used drugs without knowing it because they were forced, deceived, encouraged, or intimidated to do so. Reducing the number of drug users fails due to poor and ineffective user treatment, one of which is rehabilitation. In fact, by driving people to resort to consuming illegal items, the prison population grows. The most efficient strategy to minimise the number of users is through rehabilitation rather than persecution and punishment. The Drugs Act's provisions requiring prison sentences for drug users apply to drug addicts and legal addicts, such as drug criminals. On the other hand, it can be said that drug users are victims under the drug law, which can be seen from the articles governing their rehabilitation.⁵

The policy for formulating criminal legal sanctions for perpetrators of narcotics crimes in Madagascar

In Madakascar, every person who violates the provisions of Articles 8, 9, 11 etc., 30 and 31 of Law Number 97-039 concerning cultivation, production, manufacture, extraction, preparation, processing, import, export, offering, offering for sale, distribution, intermediary, sale, delivery, for any reason, delivery, delivery, transportation, purchase, possession or use of dangerous drugs: Art. 100 Law No.97-039: imprisonment 5 to 10 years and/or a fine of 40,000 Ar to 6000000 Ar.

Based on the implementation of existing sanctions in the country of Madagascar, Optional Punishment is very necessary for the implementation of these sanctions, namely as follows:

In cases regulated in Articles 95 to 103, the court may decide:

- Ban from the territory permanently or for a period of 1 to 5 years, against any foreigner;
- Prohibition of residence for a period of 1 to 5 years;
- Prohibition of civil rights for a period of 1 to 5 years;
- Prohibition from leaving the territory of the country and revocation of passport, duration 1 to 5 years;
- Prohibition from driving motorized vehicles, land, sea and air and revocation of permits or licenses for a period of 1 to 5 years;
- Permanent prohibition or for a period of 1 to 5 years from carrying out their profession at the time the violation was committed;
- Confiscation of all or part of the convict's assets, whatever their nature, movable or immovable, divided or undivided. In the cases regulated in article 98-1°, confiscation of equipment, materials and furniture whose premises are decorated or decorated.

The act of a narcotics addict in Madagascar is an act of using narcotics for oneself without authorization, meaning that it is done by someone without the supervision of a doctor. There is a close relationship between narcotics abuse and narcotics addicts.

Unauthorised narcotic use is categorised as drugs abuse, despite the fact that narcotics abuse is only one component of narcotics crimes. As a result, it is possible to state unequivocally that drug users are criminals. Even while drugs addicts have the requirements to commit narcotics crimes, they might also be positioned as victims in certain situations. Victims are the result of purposeful or negligent activities, voluntary actions, being coerced or deceived, natural calamities, and all of them contain the essence of mental, bodily, property, and moral suffering, as well as the nature of injustice. Narcotics addicts can be said to be victims of criminal acts of

narcotics abuse that they themselves have committed, so it is not an exaggeration if the sanctions against perpetrators of this crime are slightly lighter than for perpetrators of other narcotics crimes.

Hundreds of perpetrators and neighborhood dealers were arrested by police in Madagascar's capital during 2023. Heroin is wreaking havoc in all categories. Not a day goes by that we don't learn about a heroin-related arrest from the police. On September 2023, in the districts of Ambohidratrimo and Atsimondrano, twenty- one heroin addicts have been arrested and there are also Resellers among them. Available judicial information is limited to its transfer to the prosecutor's office. Authoritative voices fall silent when asked about the dark world behind the importation of hard drugs. However, the number of Malagasy drug addicts who have become addicted to heroin continues to increase because the price is cheaper, namely two thousand five hundred to ten thousand ariary or from ten thousand to fifty thousand rupiah per small piece wrapped in plastic paper.

Disturbingly this type of "Rô rô" narcotic sells well on every corner. Its traffickers have all the equipment necessary to consume it. Heroin can be injected, smoked, and snorted. Drug addicts stab themselves either in their blood vessels, in their skin, or even in their muscles. Some people also inhale it by heating it over an aluminum spoon, over a lighter flame, or over a candle. They inhale the smoke and steam using a tube-shaped device. They call this method "sniffing." According to the testimony of "addicts", this semi- synthetic opioid, with its bitter taste, immediately causes effects once it is absorbed by the brain. This depends on various factors. The method of administration, the person's age, the duration of consumption and the amount consumed are part of it. "In most cases, those who try heroin for the first time will vomit," various information from the age population of "RORO" drug addicts ranges from 18 years to 30 years. The drug abuse situation has now reached an alarming level where members and

accomplices of cartels operating in transnational crimes seem to feel very comfortable.

Openness of court decisions is a complex issue involving various considerations. Although there are reasons to limit access to decisions, the principle of openness remains an important basis in a democratic justice system. In the country of Madagascar itself, all court decisions are not open to the public for the reason that the country keeps the personal identities of the perpetrators secret to protect the privacy of the parties involved, while decisions involving state security or other confidential information may have restricted access to protect national interests. Based on the situation in this country, the data source used by the author is secondary data by analyzing cases from news materials on social media.

The Malagasy National Police reported the discovery of more than 64 kilograms of cocaine in a warehouse located in Androranga Toamasina Madagascar. Based on a search carried out on Monday, February 19 2024, white powder was found scattered in 57 plastic bags, said the National Police. The substance, after analysis, turned out to be cocaine, he continued. From the results of the police investigation, it was stated that the product, after being approved by the prosecutor, was burned. It is estimated to be worth 19.30 billion ariary, the police continued. The three warehouse owners were arrested and then taken to the capital where they were placed in preventive detention.

The policy for formulating criminal legal sanctions for perpetrators of narcotics crimes in Indonesia

Based on the Law on Narcotics and Psychotropics, narcotics crimes are subject to high and severe penalties with the possibility of the defendant being sentenced to a maximum of the death penalty in addition to imprisonment and a fine. Narcotics crimes and the threat of punishment for them can be imposed cumulatively by imposing 2 types of principal penalties at once, for example imprisonment and a fine or the death penalty and a fine. In the Criminal Code, the imposition of two principal penalties

at once is not possible so that there are no penalties imposed in the form of imprisonment and a fine because the Criminal Code only requires one principal penalty. However, as a special crime, for narcotics and psychotropic crimes, judges are allowed to sentence the defendant to two principal penalties at once, which are generally the death penalty, life imprisonment or imprisonment, with the aim that the punishment is more burdensome for the perpetrator so that the crime can be overcome in society.

In the criminal justice system in Indonesia, the death penalty is the most severe punishment of the many punishments imposed on perpetrators of crimes, because this punishment involves human life.⁷ The implementation of the death penalty has always invited controversy. This has not only happened in Indonesia, but this controversy has also occurred in a number of European countries that have canceled the death penalty. Several opinions state that the death penalty is not in accordance with the teachings of Islamic law, Pancasila and the 1945 Constitution. In addition, the death penalty is contrary to Human Rights based on Article 28 A of the second amendment to the 1945 Constitution, Article 4 and Article 33 paragraph (2) of the Human Rights Law No. 39 of 1999, which states that everyone is free from enforced disappearance and loss of life and is contrary to Article 6 paragraph (1) of the ICCPR, which states that everyone has the right to life.

The legal system of imposing punishment, sometimes known as criminal law, is concerned with what activities are punishable as crimes. It must first be established specifically in criminal law, which means that if there is no law governing it, a crime cannot be committed. The principle known as "*nullum delictum nulla poena sine praevia lege poenale*" in Chapter I Article 1 Paragraph (1) of the Criminal Code (KUHP) declares that no act can be penalised unless there is a statutory provision that previously governed it.⁸ According to the provisions of the Criminal Law, the

perpetrators of criminal acts can basically be divided into several categories, namely:

1. Main perpetrator.
2. Participants.
3. Perpetrator assistance

If someone is classified as the perpetrator above, there needs to be a judicial process, as regulated by the Criminal Procedure Code. There are commonly known narcotics crimes include the following:⁹

- a. Abuse exceeding the dose; (This is caused by many things, as stated above.)
- b. Narcotics distribution; (Because of its attachment to a chain of narcotics distribution, both national and international international.)
- c. Buying and selling narcotics; (This is generally motivated by the motivation to search material benefits, but there are also motivations for satisfaction.)

Law Number 35 of 2009 concerning Narcotics explicitly states that any act that is without rights directly or indirectly related to narcotics is part of a narcotics crime. Basically, the use of narcotics may only be used for medical purposes as well as science and technology. If it is known that there are acts outside the interests as mentioned above, then the act is qualified as a narcotics crime. This is emphasized by the provisions of Article 7 of Law Number 35 of 2009 concerning Narcotics which states that narcotics can only be used for health services and/or the development of science and technology. As stipulated in Article 54 of Law No. 35 of 2009 concerning Narcotics, narcotics addicts and victims of narcotics abuse are required to undergo medical rehabilitation and social rehabilitation. Furthermore, in the explanation of Article 54, it is explained that what is meant by a victim of drug abuse is someone who does not intentionally use drugs because they are persuaded, tricked, deceived, forced, and/or threatened to use drugs.

Form of imposing criminal legal sanctions on perpetrators of narcotics crimes in Madagascar

a. Cultivation, production and manufacturing

Article 94: Those who have contravened the legal provisions concerning the cultivation, production, manufacturing, extraction, preparation or processing of high-risk drugs shall be punished with forced labor and a fine of 50,000 to 5,000,000 Fmg, or one of these two penalties only.

b. International trafficking

Article 95: Those who have contravened the legal provisions concerning the export, import and international transport of high-risk drugs shall be punished with forced labor and a fine of 50,000 to 5,000,000 Fmg, or one of these two penalties only.

c. Trafficking

Article 96: Those who contravene the legal provisions concerning the offer, sale, distribution, brokerage, sale, delivery for any reason whatsoever, sending, shipping, transport, purchase, possession or use of high-risk drugs shall be punished with forced labor and a fine of 10,000 to 10,000,000 Fmg, or one of these two penalties only.

d. Facilitation of use

Article 97: The following shall be punished by imprisonment of 5 to 10 years and a fine of 10,000 to 10,000,000 Fmg, or one of these two penalties only:

- 1- Those who have facilitated the illicit use of high-risk drugs for others, for a fee or free of charge, either by providing premises for this purpose, or by any other means.

This will apply in particular to owners, managers, directors, operators in any capacity whatsoever of a hotel, furnished house, boarding house, bar, restaurant, club, circle, dance hall, venue of entertainment or any place open to the public

or used by the public, who have tolerated the use of high-risk drugs in the said establishments or their annexes or in the said places. Fraudulent intent will be presumed in the event of a second positive check by a police service.

- 2- Those who have knowingly established prescriptions for complacencies of high-risk drugs.
- 3- Those who, knowing the fictitious or complacent nature of prescriptions, have, upon presentation to them, delivered high-risk drugs.
- 4- Those who, by means of fictitious or complacent prescriptions, have obtained or attempted to obtain high-risk drugs.
- 5- Those who have added high-risk drugs to food or drinks, without the consumers' knowledge

Form of imposing criminal legal sanctions on perpetrators of narcotics crimes in Indonesia

The criminal provisions contained in Law No. 35 of 2009 concerning Narcotics are formulated in Chapter XV Criminal Provisions Articles 111 to 148. Law No. 35 of 2009 concerning Narcotics. There are 4 categories of unlawful acts that are prohibited by law and can be subject to criminal sanctions. Law No. 35 of 2009 concerning Narcotics has regulated the types of sanctions given for drug crimes, including:

- a) Article 128 contains provisions on criminal acts by parents/guardians of underage drug addicts shall be punished with a maximum imprisonment of 6 (six) months or a maximum fine of Rp1,000,000 (one million rupiah).
- b) Article 130 contains provisions on criminal acts committed by corporations shall be punished with imprisonment and a fine increased by 3 (three) times. In addition, corporations may be subject to additional penalties in the form of (1) revocation of business licenses and/or (2) revocation of legal entity status.

- c) Article 131 contains provisions on criminal acts for people who do not report narcotics crimes, which shall be punished with a maximum imprisonment of 1 (one) year or a maximum fine of Rp. 50,000,000 (fifty million rupiah).
- d) Article 132 paragraph (1) contains provisions on criminal acts against attempts or conspiracy to commit narcotics and precursor crimes, which shall be punished with the same imprisonment in accordance with the provisions referred to in the articles, which shall be punished with imprisonment and a maximum fine plus $\frac{1}{3}$ (one third).
- e) Article 133 contains provisions on criminal acts for ordering, giving, persuading, forcing with violence, trickery, and persuading children (paragraph 1) shall be punished with the death penalty or life imprisonment or a minimum of 5 years and a maximum of 20 (twenty) years and a fine of at least Rp 2,000,000,000 (two billion rupiah) and a maximum of Rp 20,000,000,000 (twenty billion rupiah) (paragraph 2) shall be punished with a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least Rp 1,000,000,000 (one billion rupiah) and a maximum of Rp 10,000,000,000 (ten billion rupiah).
- f) Article 134 paragraph (1) contains provisions for criminal acts for narcotics perpetrators who do not report themselves shall be punished with a maximum imprisonment of 6 (six) months or a maximum fine of Rp. 2,000,000 (two million rupiah) (paragraph 2) shall be punished with a maximum imprisonment of 3 (three) months or a maximum fine of Rp. 1,000,000.00 (one million rupiah).
- g) Article 135 contains provisions on criminal acts for managers of the pharmaceutical industry who do not carry out their obligations, shall be punished with imprisonment of at least 1 (one) year and a maximum of 7 (seven) years and a fine of at least Rp. 40,000,000 (forty million rupiah) and a maximum of Rp. 4,000,000 (four hundred million rupiah).

- h) Article 137 letter (a) contains provisions on criminal acts against the results of narcotics and/or narcotics precursors, shall be punished with imprisonment of at least 5 (five) years and a maximum of 15 years and a fine of at least Rp. 1,000,000,000 (one billion rupiah) and a maximum of Rp. 10,000,000,000 (ten billion rupiah) (letter b, shall be punished with imprisonment of at least 3 (three) years and maximum 10 (ten) years and a fine of at least Rp 500,000,000 (five hundred million rupiah) and at most Rp 5,000,000,000 (five billion rupiah).
- i) Article 138 contains provisions on criminal acts against people who obstruct or complicate the investigation, prosecution, and examination of cases shall be punished with a maximum imprisonment of 7 (seven) years and a maximum fine of Rp 500,000,000.00 (five hundred million rupiah).
- j) Article 139 contains provisions on criminal acts for captains or pilots who do not implement the provisions of Article 27 and Article 28 shall be punished with imprisonment of at least 1 (one) year and a maximum of 10 (ten) years and a fine of at least Rp 100,000,000 (one hundred million rupiah) and a maximum of Rp 1,000,000,000 (one billion rupiah).
- k) Article 140 contains provisions on criminal acts for civil servants, police investigators, and BNN investigators who do not implement provisions on evidence shall be punished with imprisonment of at least 1 (one) year and a maximum of 10 (ten) years and a fine of at least Rp 100,000,000 (one hundred million rupiah) and a maximum of Rp 1,000,000,000 (one billion rupiah)".
- l) Article 141 contains provisions on criminal acts for the Head of the District Attorney's Office who does not implement the provisions of Article 91 paragraph (1) shall be punished with imprisonment of at least 1 (one) year and a maximum of 10 (ten) years and a fine of at least Rp1,000,000,000 (one hundred million rupiah) and a maximum of Rp1,000,000,000 (one billion rupiah).

- m) Article 142 contains provisions on criminal acts for laboratory officers who falsify test results shall be punished with imprisonment of at most 7 (seven) years and a fine of at most Rp500,000,000 (five hundred million rupiah).
- n) Article 143 contains provisions on criminal acts for witnesses who provide false information, subject to a minimum of 1 (one) year and a maximum of 10 years in prison and a minimum fine of Rp.600,000,000 (six hundred million rupiah).
- o) Article 144 contains provisions on criminal acts for anyone who repeats a crime, subject to a maximum sentence plus $\frac{1}{3}$ (one third).
- p) Article 147 contains provisions on criminal acts committed by hospital leaders, heads of institutions, science, pharmaceutical industry leaders, and pharmaceutical trader leaders shall be punished with imprisonment of at least 1 year and a maximum of 10 years and a fine of at least Rp100,000,000 (one hundred million) and a maximum of Rp1,000,000,000,000 (one billion).
- q) Article 136 contains provisions imposing sanctions in the form of confiscation of assets used for narcotics crimes confiscated for the state.
- r) Article 146 contains provisions imposing sanctions on foreign citizens, namely expulsion from the territory of the Republic of Indonesia and being prohibited from re-entering the territory of the Republic of Indonesia if they have committed and/or undergone a narcotics crime.
- s) Article 148 contains provisions that the fine stipulated in this law, if not paid by the perpetrator, will be sentenced to a maximum of 20 years in prison.

Conclusion

In conclusion, the comparative analysis of narcotics crime policies in Indonesia and Madagascar reveals distinct approaches and challenges faced by both countries. The thesis highlights the pressing issue of narcotics crimes that not only threaten individual lives but also jeopardize the future

of entire generations. This discussion underscores the need for effective criminal legal sanctions to combat these detrimental behaviors. Both nations demonstrate differing historical and cultural influences on their legal frameworks. Indonesia, influenced by a strict civil law system, imposes severe penalties, including the death penalty, on narcotics offenders. In contrast, Madagascar's approach, shaped by its colonial past, focuses on rehabilitation, with a moratorium on the death penalty since 1958, albeit facing challenges in enforcement and effectiveness.

The statistics presented emphasize the gravity of the situation, with millions of drug users reported in Indonesia and a concerning rise in narcotics use among youth in Madagascar. The legal provisions in both countries reflect a complex balance between punishment and rehabilitation. In Indonesia, the legal framework allows for cumulative sentences, while Madagascar's laws include various sanctions aimed at both users and traffickers, albeit with less enforcement rigor. The role of legal culture, as discussed, is paramount to the efficacy of these legal systems. In both countries, societal attitudes towards drug use and enforcement significantly influence the success of legal measures. The need for a nuanced approach that considers the socio-economic conditions of drug users is evident in both contexts.

Moreover, the impact of globalization and technological advancements on drug trafficking necessitates a robust legal response. The emerging trends in drug use among the millennial generation in Indonesia and the alarming rise of heroin addiction in Madagascar call for urgent action. Ultimately, while both countries strive to tackle the scourge of narcotics, their paths diverge in the formulation and enforcement of criminal sanctions. Madagascar's potential for rehabilitation must be bolstered by stronger enforcement measures, while Indonesia's stringent penalties require continuous evaluation to ensure they align with human rights considerations. In closing, the fight against narcotics crimes is a shared global challenge that demands coordinated efforts and innovative

solutions. Both Indonesia and Madagascar must adapt their legal frameworks to not only penalize offenders but also support rehabilitation and prevention initiatives. This dual approach is essential for safeguarding future generations and ensuring the well-being of society as a whole. The collaboration between legal systems, public health initiatives, and community engagement will be vital in mitigating the impact of narcotics crimes and fostering a healthier, more resilient society.

References

- Kusno Adi.2009. *Criminal Policy in Handling Narcotics Crimes by Children*.UMM Press, Malang.
- Caron, Justin, and James R Markusen, „*Comparison of the Imposition of Death Penalty Sanctions for Perpetrators of Narcotics Crimes in Law Number 35 of 2009 concerning Narcotics and Law Number 1 of 2023 concerning the Criminal Code (Kuhp)*“, 30.2 (2016), 10635–50
- Lubis, Mhd. Teguh Syuhada. “*Punishment System for Children of Narcotics Dealers with Training Sentences.*” *EduTech: Journal of Education and Social Sciences*, vol. 6, no. 1, March 2020, p. 27–
36. DOI.org (Crossref),
<https://doi.org/10.30596/edutech.v6i1.4392>.
- Sanjaya, Yudhy, dkk. “*Socialization of the Dangers of Drugs for Young People.*” *Real Coaster: Journal of Community Service*, vol. 1, no. 1, August 2021, p. 17–22.DOI.org (Crossref),
<https://doi.org/10.53547/rcj.v1i1.103>.
- Sitepu, Rida Ista. “*Review of the Minimum Age Limit for Criminal Responsibility of Children Involved in Narcotics Trafficking.*” *Rechten Journal: Legal and Human Rights Research*, vol.2, no.3, August 2022, p. 39–58. DOI.org (Crossref),
<https://doi.org/10.52005/rechten.v2i3.90>.
- Siaran Pers Nomor: 207/HUMAS PMK/XII/2020 *Coordinating Ministry for Human Development and Culture of the Republic of Indonesia*.
- L'Express De Madagascar, 03/05/2023
<https://moov-web.sudo.mg/article/75373-abus-de-droque-lheroine-gagne-du-terrain>
- Legal Regulations:
 Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics
 LOI n° 97-039 *Sur le contrôle des stupéfiants, des substances psychotropes et des précurseurs à Madagascar*

DECLARATION OF CONFLICTING INTERESTS

The authors state that there is no conflict of interest in the publication of this article.

FUNDING INFORMATION

None

ACKNOWLEDGMENT

None

HISTORY OF ARTICLE

Submitted : March 25, 2024

Revised : July 17, 2024

Accepted : October 25, 2024

Published : November 15, 2024