



Criticism of Legal Protection for Victims of Drug Abuse: The Disharmony in Legal Substance Regulation

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Article	Abstract
Keywords: Legal Protection; Narcotics; Victims. Article History Received: Oct 10, 2024; Reviewed: Oct 31, 2024; Accepted: Jan 13, 2025; Published: Jan 15, 2025.	<i>This research aims to analyse the legal regulation of narcotics addicts in Indonesia and legal protection for victims of drug abuse, the disharmony in legal substance regulation. Law Number 35 of 2009 concerning Narcotics in Indonesia establishes the legal framework for rehabilitation, protection and eradication of narcotics abuse at the national level. This regulation requires rehabilitation measures for narcotics users, especially those categorised as victims, and provides uniform law enforcement guidelines. On the other hand, regional regulations can expand and strengthen national regulations by adapting local approaches to suit the needs of local communities. This is legal research using qualitative research methods. Legal regulations for narcotics addict in Indonesia are regulated in Law No. 35 of 2009 concerning Narcotics with a rehabilitative approach, but it still faces various challenges in its implementation. In Law No. 35 of 2009 concerning Narcotics, the disharmony of articles can arise due to several factors, including differing interpretations, unclear legal norms, or inconsistency with other relevant regulations. What is often debated is the different approaches between rehabilitation for narcotics addicts and criminal punishment for narcotics crime perpetrators in the Narcotics Law. Article 54 states that narcotics addicts are required to undergo medical and social rehabilitation. On the contrary, Article 127 paragraph (1) asserts that narcotics users without rights or against the law are subject to imprisonment.</i>



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INTRODUCTION

Article 1, paragraph 3 of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia) Indonesia bases law as the ideology of the state to create order, security, prosperity and justice for all citizens. As a legal state, Indonesia has the consequence that the state follows for every action taken by its citizens (Dwi et al., 2024; Gusti Ayu Novira Santi, Ni Putu Rai Yuliartini, 2019). The rule of law is the law at the highest position in a country; power must be subject to the law, not the law, which is subject to power. The law must protect the interests of its citizens and align with the principle of equality before the law, highlighting the position of citizens and those in power in the eyes of the law (Bakhari, 2014). Article 27, paragraph (1) of the 1945 Constitution asserts, "All citizens have the same position under the law and government and are obliged to maintain the law and government without special case" This article implies that every person has the right to recognition, guaranteed protection, fair legal certainty, and equal recognition before the law (Nathania Griseldis Kirsten Moendoeng, 2019). Narcotics-related violations are transnational, involving the utilization of cutting-edge operational modes and modern innovation. Authorities are anticipated to avoid and overcome these crimes to allow for the progression of ethical quality and human quality as assets in Indonesia. Narcotics Abuse empowers illegal trafficking, whereas unlawful narcotics trafficking is getting even broader worldwide (Nasrudin, M. Taufik Makarao, 2022).

Narcotics and psychotropic drugs are substances commonly used in medicine, health services, health and scientific development. Such substances are addictive and have detrimental effects if used without strict and careful supervision (Badu et al., 2022; Muhammad Yamin, 2012). Substances as above were initially intended for therapeutic purposes, but with the advancement of science and innovation, numerous sorts of drugs have been inappropriately used (Moh. Makaro Taufik, 2012). Increased narcotics abuse (Wicaksono et al., 2023) directly damages the physical and psychological (mental) health of the users while slowing economic development and decreasing social progress (Waluyo, 2018).

A 2019 survey conducted by BNN reported a 1.80% increase from the previous survey, accounting for about 3.6 million of the total population of Indonesia. As currently reported, 74% of convicts from the total capacity of prison cells in Indonesia, the majority are convicts involved in narcotics cases (I Made Esa Suryaputra, 2021). Considering that narcotics abuse has a negative impact on health and society, people with an addiction and victims of narcotics abuse are required to undergo rehabilitation, in line with Article 54 of Law No. 35 of 2009 concerning Narcotics, asserting that narcotics addicts, abusers, and victims are required to undergo medical and social rehabilitation. However, many people cannot do this optimally since judges handling

such cases rarely make legal breakthroughs that prioritize social and human values. Judges in Indonesia look more at the criminal side of the Narcotics Law.

Dealing with narcotics addicts, abusers, and casualties is centered on restoration endeavors through comprehensive and responsible appraisal components. Its execution points to ensure existing human assets, but not all abusers are sentenced to jail since there is another alternative of specific restoration. Restoration centers on the physical and mental recuperation of those involved in narcotics. These two controls guarantee that medicated clients get the fundamental recovery administrations and are not set as offenders (Toni Hidayat, 2020).

Article 4 of the Narcotics Law explains that the main purpose of establishing this Narcotics Law is to implement and provide rehabilitation for narcotics abusers and people with an addiction (Fitri Yanni Dewi Siregar, Muhammad Yusrizal Adi Syaputra, Tengku Nuranasmita, Rismada Anggun Syafitri, Mhd. Hidayatul Qolbi, 2024). On the contrary, Article 54 of Law No. 35 of 2009 only explains that only addicts and victims of narcotics abuse are required to undergo medical and social rehabilitation. In other words, Narcotics abusers cannot be classified as someone who is entitled to medical and social rehabilitation as legal protection, considering that people with an addiction, abusers, and victims have different meanings in the scope of Narcotics Law (Panggalo, Iindarda S., 2024).

Narcotics addiction is an act that possibly involves the perpetrator as a victim; such a situation is often termed self-victimizing because a narcotics addict is a sick person (Jarot Yusviq Andito, Alpi Sahari, 2022) who has an addiction resulting from his actions. According to the objectives of the establishment of Law No. 35 of 2009, providing sanctions in the form of medical and social rehabilitation to addicts and victims should be made mandatory and must be enforced by law enforcement officials (Saragi, P, 2024). From a juridical viewpoint, addicts and victims in this context cannot be categorized as criminals (Al-Fatih, S., et. al, 2023) since the essential nature of the crime must involve another person as a victim. This point leads to the understanding that narcotics abuse is a victimless crime for addicts and victims. In criminalizing victims, issues emerge in the definition of criminal dangers by the government as outlined in Law Number 5 of 1997 concerning Psychotropics (hereinafter referred to as the Psychotropics Law) and Law Number 22 of 1997 concerning Psychotropics concerning Narcotics, which was afterward changed to Law Number 35 of 2009 concerning Narcotics (hereinafter referred to as the Narcotics Law), in which there are still inconsistencies, perplexity, irregularities conjointly differing qualities in actualizing this legitimate item, particularly in deciding sanctions.

On the one hand, narcotics clients are sentenced to jail. On the other hand, they are restored. Although the law clearly states that victims of narcotics users have properly experienced treatment and/or care through recovery, judges seldom prefer

sentencing. Although recovery is involved, the discipline connected to drug clients is still within the scope of detainment.

In its improvement, the Supreme Court has issued Circular Number 04 of 2010 concerning the Arrangement of Narcotics Abusers, Victims, and Addicts for therapeutic and social restoration as the objectives of local court and High Court judges in selecting cases. Furthermore, Government Regulation Number 25 of 2011 concerning the Usage of Required Detailing of Narcotics Addicts was issued, ensuring addicts and/or casualties of narcotics abuse receive treatment and/or care through medical rehabilitation and social rehabilitation. Restoring addicts and victims, as outlined in Law Number 35 of 2009 concerning Narcotics, presents a significant challenge. This process requires a thorough understanding of the circumstances under which the narcotics use began. It is crucial to prove that the individual used narcotics due to coercion, deception, misguidance, pressure, or threats. To address these complexities, the Supreme Court introduced a pivotal measure by issuing Circular Letter (SEMA) Number 04 of 2010, providing judges with guidelines for making informed decisions in narcotics-related cases (Utama, 2018).

Disharmony in law enforcement against narcotics addicts is found in articles 4, 54 and 103 of Law Number 35 of 2009 concerning Narcotics, and inconsistency in law enforcement emerges among law enforcers (Police, BNN, Prosecutor's Office and Judges) in determining the rehabilitation of narcotics addicts. The execution of rehabilitation does not run efficiently. There is disarray in the definitions in the Narcotics Law. Article 4 of the Narcotics Law states that "The Narcotics Law points to guarantee the control of restorative and social restoration endeavors for Narcotics abusers and addicts" In any case, Article 54 of the Narcotics Law states that "Narcotics Addicts and Victims of Narcotics Abusers are required to experience medical rehabilitation and social rehabilitation" Looking at Article 54, this implies that the abuser's right to get recovery is not recognized. Abusers initially eligible for rehabilitation under Article 127 of the Narcotics Law can still face punishment and lose their right to recovery unless they can prove, or it is proven, that they are victims of narcotics use. Moreover, there are differences in the supposition of the word "Can" in Article 103 of the Narcotics Law. In Law No. 35 of 2009, Article 103 concerning Narcotics mentions "Can" meaning that a judge can make a choice within the frame of rehabilitation or imprisonment for narcotics addicts to ensure that option for rehabilitation remains a consideration and is not sidelined or overlooked in the implementation of the Law.

Research conducted by I Gusti Bagus Sakah Sumaragatha entitled Legal Politics in Countermeasures Narcotics Addicts implies that the government firmly guarantees that every citizen has the right to a great and sound living environment. The government has endeavored to create controls that ensure the wellbeing of its citizens as mandated by the 1945 Constitution. The government has revised the Law

concerning Narcotics twice. Pancasila Legal Paradigm bases its view on the Indonesian people as one of the capitals of national development that needs to be maintained and improved continuously, including their level of health. This shows a shift in the criminal paradigm from the absolute school, as contained in Law Number 22 of 1997 concerning Narcotics, towards the neoclassical school. This change and paradigm shift was then realized in Article 54 of the Narcotics Law, stating that "Narcotics Addicts and Victims are required to undergo medical rehabilitation and social rehabilitation." This represents legal politics carried out by the government to improve regulations related to Narcotics by revising the law twice (Intan Permata Sari, 2019).

Research conducted by Gomgom T. P Siregar entitled Counseling on the Dangers of Narcotics Addicts and Victims of Narcotics Abuse shows that the distribution and impact of narcotics are disturbing. The ease of encountering these dangers is increasing. Regardless of gender and age, everyone is at risk of becoming addicted once they try this dangerous substance. The procedures for implementing Medical Rehabilitation for victims of narcotics abuse according to Joint Regulation (*Peraturan Bersama/PERBER*) Number: 01/III/2014/BNN concerning the Handling of Narcotics Addicts and Victims in Rehabilitation Institutions are the breakthroughs made by Indonesian National Narcotics Agency (BNN) in protecting the rights of suspects in cases narcotics. With PERBER Number: 01/111/2014/BNN, suspects or victims of narcotics abuse have access to applying for rehabilitation (Gomgom TP Siregar, Rudolf Silaban, 2022). This research aims to analyze the legal regulation of narcotics addicts in Indonesia, legal protection for victims of drug abuse, and the disharmony in legal substance regulation.

METHOD

This is legal research using normative legal research methods. According to Philipus M Hadjon and Tatiek Sri Djatmiati, normative legal research departs from the essence of legal science (Philipus M Hadjon, 2016). In line with this, Legal Research also uses statutory and conceptual approaches (Al-Fatih, S, 2023). In a statutory approach, the author needs to understand the hierarchy and principles of statutory regulations. Legislative regulations are written regulations that contain generally binding legal norms and are formed or stipulated by State institutions or authorized officials through procedures specified in statutory regulations. This definition implies that statute includes legislation and regulations. In other words, the statutory approach involves using legislation and regulations as the research sources (Johnny Ibrahim, 2007).

RESULT AND DISCUSSION

Legal Regulation of Narcotics Addicts In Indonesia

Narcotics addicts are one of the main challenges in law enforcement and public health efforts in Indonesia. Legal regulations for narcotics addict in Indonesia are regulated in Law No. 35 of 2009 concerning Narcotics (Mikha Dewiyanti Putri, Prih Utami, 2022). This law aims to regulate the legal use of narcotics for medical purposes, prevent narcotics abuse, and provide protection for victims of narcotics abuse. However, the approach applied is both repressive and rehabilitative for people with an addiction. Narcotics addicts in Indonesia are treated not only as perpetrators of criminal acts (Elpina, 2021) but also as victims who need to receive medical treatment. This is in line with the principle of handling narcotics problems, which prioritises a humanist approach through rehabilitation and social recovery. However, in its implementation, this regulation still faces various obstacles, especially in terms of law enforcement, rehabilitation facilities, and public stigma towards people with an addiction.

One step forward in this regulation is the recognition that narcotics addicts, especially narcotics users who are still dependent, are victims requiring medical and social treatment, not merely perpetrators of criminal acts. Article 54 of the Narcotics Law states that narcotics addicts and victims of narcotics abuse are required to undergo medical and social rehabilitation. It is hoped that this rehabilitation can break the cycle of addiction and encourage people with an addiction to return to society in better conditions. One step forward in this regulation is the recognition that narcotics addicts, especially narcotics users who are still addicted, are victims who require medical and social treatment, not merely perpetrators of criminal acts. Article 54 of the Narcotics Law states that narcotics addicts and victims are required to undergo medical and social rehabilitation. It is hoped that this rehabilitation can break the cycle of addiction and encourage people with an addiction to return to society in better conditions.

Even though a rehabilitative approach is prioritised, this law still imposes strict legal sanctions against users and addicts who fail to follow applicable legal procedures. Article 127 regulates that every person who uses class I, II and III narcotics without right or against the law is punishable by imprisonment. However, those who are caught for the first time and proven to be addicts may be subject to rehabilitation sanctions as an alternative to prison as imposed by the judge. On the other hand, narcotics dealers and producers will be subject to much heavier penalties, including life imprisonment or the death penalty for serious cases such as trafficking narcotics in large quantities. This policy reflects the government's firm stance in combating narcotics trafficking in Indonesia.

Even though the legality of this regulation is considered quite comprehensive, its implementation in the field often draws criticism. Some of the main criticisms regarding the legal regulation of narcotics addicts in Indonesia are the lack of adequate rehabilitation facilities and the unequal public understanding of the importance of a rehabilitative approach. It is not uncommon for the legal process for narcotics addicts

to emphasise punishment rather than rehabilitation, especially for people with an addiction who come from economically weaker sections.

Limited resources in rehabilitation institutions also imply that many people with an addiction do not get access to proper treatment. In addition, law enforcement, which is sometimes less consistent in differentiating between narcotics users and dealers, can exacerbate the stigma against people with an addiction so that they are increasingly marginalised from society. One of the mechanisms regulated in the Narcotics Law is the obligation for the family or guardian of a narcotics addict to report it to the authorities. Article 55 regulates that parents or guardians who do not report narcotics addicts may be subject to administrative sanctions. It is hoped that this reporting can encourage rehabilitation efforts for people with an addiction and prevent them from getting further involved in narcotics abuse.

However, as explained by Ginting (2020), the main obstacle to this reporting mechanism is the public's lack of understanding about the importance of reporting and the fear that people with an addiction will be criminally punished. Therefore, there is a need for more intensive outreach regarding reporting mechanisms and the benefits of rehabilitation for narcotics addicts (Ginting, 2020).

Legal Protection for Victims of Drug Abuse and the Disharmony in Legal Substance Regulation

In the Netherlands, legal protection for drug addicts (Hondebrink et al., 2020) focuses on harm reduction, health care, and rehabilitation approaches instead of only criminalising drug use. This policy is reflected in the Opium Act, which differentiates narcotics into hard drugs and soft drugs, with different legal treatments for users of each category. People with an addiction of hard drugs such as heroin or cocaine are usually directed to health care or rehabilitation programs rather than subject to criminal penalties. The Dutch government provides easily accessible health services and rehabilitation programs for people with an addiction (Bellaert et al., 2021), including medical care, counselling, and substitution programs such as administering methadone to heroin addicts. People with an addiction can also receive legal protection from discrimination or enlightenment while undergoing rehabilitation. Overall, the Dutch legal system emphasises aspects of public health and rehabilitation efforts to address drug protection, intending to reduce health and social risks for individuals and society.

In Australia, legal protection for narcotics addicts (Seear & Fraser, 2014) focuses on harm reduction, rehabilitation and diversion approaches in the criminal justice system. Although drug use remains illegal, national and state policies in Australia emphasise a health approach rather than imprisonment for drug addicts. Narcotics addicts can access various rehabilitation programs and health services provided by the government, such as rehabilitation service centres, counselling, and substitution programs through methadone therapy for opioid addicts. Additionally, many states

implement drug diversion programs, which allow drug users to receive rehabilitation treatment as an alternative to criminal prosecution, especially if it is a misdemeanour or first offence. Some states, such as New South Wales and Victoria, also provide safe injecting rooms as part of a harm reduction strategy, which helps reduce the risk of disease transmission and death from overdose.

With this policy, Australia provides legal protection through a health-based approach, which aims to reduce dependency rates, prevent the transmission of infectious diseases, and minimise the social impact of narcotics abuse. Protection for victims of narcotics abuse cannot be implemented optimally, where in the process of resolving cases, the police still refer to the Criminal Procedure Code, starting from the investigation stage until delegation to the prosecutor's office. So, the rehabilitation authority at the time of investigation at the police level has not been able to provide legal protection for victims of narcotics abuse.

Law Number 35 of 2009 uses a criminal approach to monitor and prevent narcotics abuse (Rohman Hakim, 2023). The use of punishment is still considered an attempt to discourage narcotics use. This is supported by the granting of great authority to the National Narcotics Agency, which has the metaphor of being an institution that has the authority to raise awareness among the public and carry out inquiries, investigations and prosecutions in narcotics crimes. However, police tend to adhere to the Criminal Procedure Code and Law Number 35 of 2009 concerning Narcotics alone, so in implementing the article, the elements have been fulfilled in Article 114. Victims of drug abuse addiction are those who have attempted narcotics crimes to self-use or just to get one or two puffs of that narcotic. So, Article 127 does not apply because the main elements in Article 112 and Article 114 have been fulfilled.

Moreover, Article 54 regulates the commitment to experience medical rehabilitation and social rehabilitation for narcotics addicts and victims of narcotics abuse. In any case, in choosing a case as outlined in Article 127 of Law Number 35 of 2009 paragraph (1) concerning narcotics abuse, the judge is obliged to pay consideration to the arrangements in Article 54, Article 55, and Article 103 which contain (1) the commitment to experience medical and social restoration for people with an addiction and casualties of narcotics abuse which can afterward be tallied as serving a sentence, (2) commitments for parents or guardians of minors as narcotics addicts or adult narcotics addicts to report themselves or be reported by their families concerning their addiction to narcotics at open wellbeing centres, clinics, and/or therapeutic and social rehabilitation designated by the government, as well as (3) medical rehabilitation for Narcotics addicts are conceded to healing centres. Abusers in Article 127 passage (3) are required to be admitted to medical and social rehabilitation if they can be proven as casualties of narcotics abuse as set out in Article 54.

Different understandings between people with an addiction, victims of and "dealers" have implications for the imposition of sanctions on them (Mintarum, A., Cornelis, V. I., & Marwiyah, 2024) regarding whether they are subject to criminal sanctions or an obligation to undergo medical and social rehabilitation. Meanwhile, dealers can be associated with instrumental behaviour, while the perpetrator is strongly associated with the group or network to which he belongs. The negative effect of criminal threats as a deterrent effect greatly influences the perpetrator. Narcotics abuse mostly occurs in the productive age group, especially school children. Penal measures are not the only way out for dealing with narcotics, and the increasing number of abusers does not require criminal penalties.

Disharmony between articles in law indicates inconsistencies or contradictions of legal provisions (Ernawati Huroiroh, Rimbawani Sushanty, V., & Roychan, 2022). In Law No. 35 of 2009 concerning Narcotics, disharmony between articles can arise due to several factors, such as differences in interpretation, unclear legal norms, or inconsistency with other relevant regulations. The existing debate has been around the Narcotics Law, particularly the difference in approach between rehabilitation for narcotics addicts and criminal punishment for narcotics crime perpetrators. Article 54 states that narcotics addicts are required to undergo medical and social rehabilitation. On the contrary, Article 127 paragraph (1) implies that those appropriately using narcotics without rights or against the law are subject to imprisonment.

Disharmony is triggered by the clash between rehabilitation opportunities for people with an addiction and the fact that narcotics users are often still subject to prison sentencing. This disharmony is mainly due to the unclear boundaries between narcotics users who are eligible for rehabilitation and users who are considered criminals. This inconsistency also creates confusion in the law's implementation, especially for judges and other law enforcers. Article 55 of the Narcotics Law regulates that the family or guardian of a narcotics addict is obliged to report to the authorities for rehabilitation. Otherwise, they may be subject to administrative sanctions. However, there is fear from the family that this reporting could result in the arrest and criminal punishment of people with an addiction, considering that Article 127 mentions prison sentencing for those involved in narcotics abuse.

This discrepancy creates a dilemma for families of people with an addiction to report. While they are expected to report for rehabilitation, there is a risk of punishment that the person with an addiction may be subject to, making them reluctant to report drug addicts. This condition worsens the situation and delays treatment. Article 127 and Article 114 provide different provisions regarding narcotics addicts and dealers. People with an addiction, according to Article 127, can be given rehabilitation, while dealers, as regulated in Article 114, are subject to severe penalties, including life imprisonment or the death penalty for big dealers. Problems arise when

there are no clear criteria to separate people with an addiction who use narcotics for personal consumption from those qualifying as dealers.

In many cases, people with an addiction who possess slightly more narcotics than is considered reasonable for personal use or who are found sharing narcotics with others are often considered dealers. This sparks legal uncertainty and inconsistent law enforcement. Some parties criticise that this lack of clarity allows abuse of authority in the legal process. Law No. 35 of 2009 concerning Health also provides regulations regarding narcotics, especially regarding their use for medical purposes. Article 102 of the Health Law states that narcotics are only permitted for health services and/or the development of science. This provision is in line with Article 7 of the Narcotics Law, which allows the use of narcotics for medicinal purposes. However, there is disharmony between the criminal law approach and the health approach in its implementation. Many drug users as victims of addiction are more often treated as criminals than as patients in need of treatment. This shows a lack of coordination between narcotics laws and health regulations, so that the approach to treating people with an addiction tends to be punitive rather than rehabilitative.

Narcotics-related cases should be seen as major cases (Winjaya et al., 2021) that concern the future of an individual, especially the younger generation, making it reasonable to implement both imprisonment and rehabilitation. The legal process involves investigations at the first level by the police and trials at court as the final result of a decision with permanent legal force, often called *Inkracht van gewijsde*. Although this matter is regulated in Law Number 35 of 2009 concerning Narcotics (Pembaharuan Hukum Ibnu Taqwim et al., 2021), there has been no concrete form in this regulation to place narcotics users not only as criminals but also emphasise that users are victims who must also be rehabilitated. This increasingly shifts the position of victims with their addiction to narcotics as criminals and overlooks their position as victims who are attached to all the rights they must bear. Therefore, measures to protect victims addicted to narcotics are necessary, and these measures must be properly aimed, ranging from the start of the investigation stage to the judge's decision in a court hearing. Since the system of repressive measures is intended to include someone as a victim, there needs to be special criteria and the application of special sanctions to ensure that legal protection measures can be implemented optimally.

The application of the necessary sanctions that can be applied to victims of drug abuse addiction must be regulated in a law which sets out specific criteria or classifications in categorising victims and must start from the initial investigation process carried out by the police as a reference for law enforcement in the jurisdiction of the Republic of Indonesia. The criteria for protecting victims of addiction to narcotics are currently regulated in the Supreme Court Circular (SEMA) of the Republic of Indonesia Number 4 of 2010 (Chrysno Fambrio Siletty, 2023), which may set a benchmark for abusers threatened with imprisonment as intended in Article 127,

paragraph (1) of Law No. 35 of 2009. Both people with an addiction and drug abusers abuse narcotics. However, to differentiate between them, an assessment or proof must first be carried out for the suspect or defendant so that the judge can discover whether the defendant is a person with a heavy addiction to drugs or a drug abuser not addicted to drugs. For example, someone is caught red-handed possessing and abusing the maximum amount of Class I Narcotics (according to point 2 of the Supreme Court Circular of the Republic of Indonesia Number 4 of 2010) for himself. After a medical examination (assessment) and/or examination of evidence at trial, it is revealed that he is not an addict or victim of Narcotics abuse. When this is the case, the defendant should be subject to imprisonment as regulated in Article 127, paragraph (1) letter a of Law Number 35 of 2009 and not subject to rehabilitation measures as intended in Article 103 of Law Number 35 of 2009. Regarding the non-imposition of medical and social rehabilitation measures on abusers, as mentioned above, article 54 of Law Number 35 of 2009 only requires narcotics addicts and narcotics Abusers as victims to undergo medical rehabilitation and social rehabilitation.

Implementation of Regional Regulations in Indonesia related to Narcotics Issue

The implementation of regional regulations on legal protection for narcotics (Marbun et al., 2023) addicts in Indonesia aims to strike a balance between measures to overcome narcotics abuse and measures to protect the rights of addicts who are caught up in this abuse. In this case, regional regulations often refer to broader regulations set by the central government, such as Law Number 35 of 2009 concerning Narcotics, but with adjustments to more specific local needs and conditions. It is important to understand that legal protection for narcotics (Sulistyawati, 2023) addicts include two main aspects: first, rehabilitation efforts for people with an addiction (Widiasyam et al., 2020), and second, providing legal sanctions that are more rehabilitative than punitive. Many regional regulations in Indonesia are starting to integrate more humane policies in dealing with narcotics problems by providing access for people with an addiction to undergo a rehabilitation process rather than being immediately punished. This aims to help narcotics addicts recover through medical and psychosocial treatment, as well as to prevent them from being trapped in a cycle of laws that do not provide solutions.

Apart from that, the implementation of regional regulations also includes the establishment of rehabilitation facilities and centres that collaborate with related agencies to provide appropriate treatment for narcotics addicts. Regional governments (Nugraha et al., 2023), in this case, have an obligation to provide sufficient budgets and support the development of necessary infrastructure. Several regions have initiated community-based rehabilitation programs, such as drug care communities, which are expected to help people with an addiction recover and reintegrate into society.

Regional Regulation (Perda) Number 1 of 2021 of Central Java Province concerning Combating Narcotics and Illicit Drug Abuse provides a more humane approach towards narcotics addicts by emphasising rehabilitation rather than criminal punishment. Implementation of this regional regulation includes the provision of rehabilitation facilities in collaboration with medical institutions and social institutions, as well as encouraging the community to play an active role in preventing and rehabilitating narcotics abuse. Apart from that, this regional regulation also regulates the establishment of community-based rehabilitation centres and involves various parties, such as law enforcement officials, local governments, and non-governmental organisations, to provide legal protection to people with an addiction and support their recovery through medical and psychological treatment. This regional regulation shows the Central Java government's commitment to reducing the number of narcotics addictions effectively and prioritising a rehabilitative approach that focuses on social recovery.

Government Regulation Number 25 of 2011 concerning the Implementation of Rehabilitation for Narcotics Addicts in West Java regulates rehabilitation mechanisms for narcotics addicts through medical and social approaches, to provide legal protection and recovery. Implementation of this regulation includes the provision of rehabilitation facilities in collaboration with health agencies and other related institutions, which is expected to reduce the negative impact of narcotics abuse. The West Java government, through this regulation, focuses on providing access to rehabilitation for people with an addiction, which places greater emphasis on physical and mental recovery, as well as social reintegration, rather than enforcing criminal penalties. Apart from that, this Government Regulation also supports the establishment of rehabilitation centres at the provincial and district/city levels, involving various parties in management and supervision to ensure the rehabilitation process runs well and effectively.

East Java Province Governor Regulation (*Peraturan Gubernur/PERGUB*) No. 49 of 2023 concerning Combating Narcotics Abuse in East Java prioritises a holistic and community-based rehabilitation approach in dealing with narcotics addicts. Implementation of this governor's regulation includes strengthening rehabilitation facilities, which involves collaboration between local governments, hospitals, rehabilitation institutions and community organisations to provide medical and psychosocial care to narcotics addicts. This governor's regulation also emphasises the importance of preventing narcotics abuse through education and awareness campaigns for the community, as well as developing community-based rehabilitation programs to facilitate access for people with an addiction who want to recover. This gubernatorial regulation reflects the East Java government's efforts to reduce the impact of narcotics abuse with a more preventive and rehabilitative approach, not just criminal punishment.

Bali Province Regional Regulation (*Peraturan Daerah/Perda*) No. 7 of 2017 concerning Combating Narcotics Abuse provides a more rehabilitative approach to narcotics addicts, with a focus on recovery through medical and social rehabilitation. Implementation of this regional regulation includes providing rehabilitation facilities in collaboration with local hospitals and health institutions, as well as facilitating access for people with an addiction to undergo treatment without the stigma of criminalisation. Apart from that, this Regional Regulation also encourages community involvement in prevention and rehabilitation programs by providing education about the dangers of narcotics abuse and the importance of the role of families and communities in supporting the recovery process. Through this policy, Bali is trying to reduce narcotics abuse effectively by prioritising rehabilitation and social reintegration for people with an addiction.

Various regional regulations and governor regulations implemented in Indonesia, such as Central Java Provincial Regulation No. 1 of 2021, Government Regulation No. 25 of 2011 in West Java, Gubernatorial Regulation of East Java Province No. 49 of 2023, and Bali Province Regional Regulation No. 7 of 2017 show governments' commitment to prioritizing a rehabilitative approach in dealing with narcotics addicts. All these regulations emphasize the importance of medical and social rehabilitation, the provision of rehabilitation facilities, and community involvement in the prevention and recovery of narcotics abuse. This approach focuses more on the physical and mental recovery of people with an addiction rather than criminal punishment, with the aim of social reintegration and reducing the adverse effects of narcotics more effectively.

CONCLUSION

Legal regulations for narcotics addict in Indonesia are regulated in Law No. 35 of 2009 concerning Narcotics with a rehabilitative approach, but this law still faces various challenges in its implementation. Although the law provides opportunities for medical and social rehabilitation for narcotics addicts as an alternative to punishment, the lack of clarity in the separation between narcotics users and dealers, as well as inconsistency with other laws, such as the Health Law, has led to legal disharmony. Community stigma, limited rehabilitation facilities, and lack of family understanding about reporting people with an addiction are also obstacles to implementing this regulation. Therefore, more straightforward and more inclusive legal and policy reforms are needed so that legal protection and rehabilitation for narcotics addicts can be implemented optimally. The government should prioritize revising both the Narcotics Law and the Health Law to harmonize their approaches to drug addiction and rehabilitation. The Narcotics Law, specifically Articles 54, 55, and 127, should be amended to create clearer distinctions between people with an addiction and drug

dealers, ensuring that people with an addiction are treated as victims in need of rehabilitation rather than criminals.

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