



DOI: <https://doi.org/10.38035/sijal.v4i2>
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Received: 19-09-2026 | Revised: 08-10-2026 | Accepted: 16-10-2026

The Decriminalization of Narcotics Abuse After the Enactment of the National Criminal Code

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Abstract: Narcotics abuse is a legal, social, and health problem that requires a criminal law policy that is proportionate to the interests of community protection and the need for recovery of narcotics abusers. After the enactment of Law Number 1 of 2023 concerning the Criminal Code, these problems have become increasingly relevant because the National Criminal Code emphasizes corrective, rehabilitative, restorative, and social reintegration aspects. This study aims to analyze the regulation of criminal law policies on narcotics abuse and the construction of decriminalization of narcotics abuse in accordance with the principle of *ultimum remedium*. The research method used is normative legal research. The results of the study show that there is still a disharmonization between Law Number 35 of 2009 concerning Narcotics and the criminal paradigm in the National Criminal Code. Decriminalization is not interpreted as the legalization of narcotics, but the reformulation of criminal law policies that prioritize rehabilitation for narcotics abusers who are proven to be addicts or victims of abuse, while prison sentences remain as the ultimate remedium.

Keywords: Decriminalization, Narcotics Abuse, Criminal Law Policy, National Criminal Code, Rehabilitation and ultimum Remedium.

INTRODUCTION

Narcotics abuse is one of the legal, social, and health problems that are still a concern for various countries, including Indonesia. The increasingly complex development of illicit narcotics circulation has caused various negative impacts on people's lives, both in the aspects of health, social, economic, and national security. Narcotics, which were initially used for the benefit of health services and scientific development, are often misused in their development, causing dependence and various consequences that are detrimental to individuals and society.

Based on the provisions of Article 1 number 1 of Law Number 35 of 2009 concerning Narcotics, narcotics are substances or drugs derived from plants or non-plants, both synthetic and semi-synthetic that can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can cause dependence. Narcotics abuse not only has an impact on the physical and mental health of users, but also has the potential to cause various social problems

such as increasing crime rates, declining community productivity, and disrupting national resilience.

Narcotics abuse has a multidimensional impact because it not only affects the physical and psychological condition of individuals as users, but also has far-reaching consequences for the social, economic, legal, and security life of the country. From a health aspect, the continuous use of narcotics can cause damage to the central nervous system, brain function disorders, cardiovascular diseases, psychiatric disorders, and increase the risk of death due to overdose. In addition, the use of narcotics through alternating syringes also increases the risk of transmission of infectious diseases such as Human Immunodeficiency Virus (HIV) and hepatitis. This condition shows that narcotics abuse has developed into a public health problem that requires comprehensive handling through promotive, preventive, curative, and rehabilitative efforts.

From the social aspect, narcotics abuse causes disruption of family functions, increases in divorce rates, school dropouts, loss of labor productivity, and increases in various forms of social deviation and crime. Dependence on narcotics also results in a decrease in the ability of individuals to carry out their social functions, thus having an impact on the quality of human resources. Meanwhile, from the economic aspect, narcotics abuse causes significant losses, both for individuals, families, and the state. These losses include increasing costs for health services, rehabilitation, law enforcement, corrections, and loss of productivity due to the decline in the employability of narcotics abusers. Therefore, narcotics abuse can no longer be seen as an individual problem, but has become a national development problem that requires effective legal policies and are oriented towards community protection.

From a legal and security aspect, narcotics abuse has a close relationship with the existence of organized narcotics illicit trafficking networks, both in the national and transnational scopes. These activities are often related to other criminal acts such as money laundering, human trafficking, cross-border smuggling, corruption, and other organized crimes that have the potential to disrupt national security stability. The United Nations Office on Drugs and Crime (UNODC) in its World Drug Report 2025 states that the number of narcotics users in the world continues to increase, encouraging the development of an increasingly complex narcotics illicit trafficking network. This condition shows that policies to combat narcotics abuse are not enough to rely only on a repressive approach through criminalization, but also require a public health approach and rehabilitation for abusers who are essentially victims of narcotics dependence.

Narcotics abuse also shows an alarming trend in Indonesia. Based on various national and international reports, Indonesia is still one of the countries that faces a serious threat from illicit trafficking and narcotics abuse. The high number of narcotics abusers shows that the narcotics problem is no longer only seen as a criminal problem, but also as a public health and national development problem. This condition demands a legal policy that is not only oriented towards eradicating illicit narcotics trafficking, but also able to provide protection and recovery for narcotics abusers.

Normatively, criminal law policy against narcotics abuse in Indonesia is regulated in Law Number 35 of 2009 concerning Narcotics. The law regulates various forms of narcotics crimes while providing provisions on rehabilitation for addicts and victims of narcotics abuse. In the provisions of Article 127 of Law Number 35 of 2009, narcotics abusers are still qualified as perpetrators of criminal acts that can be sentenced to prison. However, Article 54, Article 55, and Article 103 of Law Number 35 of 2009 also provide space for medical rehabilitation and social rehabilitation for addicts and victims of narcotics abuse.

In addition to Law Number 35 of 2009 concerning Narcotics, regulations regarding the handling of narcotics abusers are also supported by various other regulations, including the 1945 Constitution of the Republic of Indonesia as the constitutional basis for the protection of the right to legal certainty and health, Law Number 8 of 1981 concerning the Criminal

Procedure Law as the basis for the criminal justice process, Law Number 1 of 2023 concerning the Criminal Code as a direction reform of the national criminal law, Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Prosecuting Criminal Cases Based on Restorative Justice, Supreme Court Regulation Number 1/PB/MA of 2014 concerning the Handling of Narcotics Addicts and Victims of Narcotics Abuse in Rehabilitation Institutions, Regulation of the National Narcotics Agency Number 11 of 2014 concerning Procedures for the Handling of Suspects and/or Defendants of Narcotics Addicts and Victims of Narcotics Abuse into Institutions Rehabilitation, as well as BNN Regulation Number 1 of 2019 concerning the Implementation of Rehabilitation Services at Rehabilitation Institutions in the BNN Environment. The overall regulation shows that national legal policies not only focus on the criminal aspect, but also accommodate rehabilitative approaches and restorative justice in handling narcotics abusers. This regulation shows the dualism of criminal law policy in handling narcotics abuse. On the one hand, narcotics abusers are positioned as perpetrators of criminal acts that can be subject to criminal sanctions. On the other hand, narcotics abusers are also seen as individuals who need rehabilitation because they are in a condition of narcotics dependence. This dualism raises a debate about the position of narcotics abusers in the Indonesian criminal law system, whether it is more appropriate to be positioned as a perpetrator of a criminal act or as an individual who needs rehabilitative action.

In the perspective of modern criminal law, the use of criminal law must pay attention to the principle of *ultimum remedium* which places criminal law as the last means of solving a social problem. This principle requires that the use of criminal sanctions be carried out proportionately and only applied if other legal means are unable to provide an effective solution. In the context of narcotics abuse, the principle of *ultimum remedium* becomes relevant because drug abusers are often in a position as victims of dependency that require a rehabilitative approach rather than a punitive approach. Therefore, the use of prison sentences against narcotics abusers needs to be reviewed to assess whether it is still in line with the goals of modern criminal law which is oriented towards recovery and protection of society.

The development of national criminal law shows a significant paradigm shift through the birth of Law Number 1 of 2023 concerning the Criminal Code. The presence of the National Criminal Code is part of the reform of Indonesian criminal law which aims to replace the Dutch colonial legacy Criminal Code, which for decades has been the basis of national criminal law.

According to the national *Rr. Dijan Widijowati*, criminal law reform is part of a legal reform effort that aims to adapt the criminal law system to the development of society, the need for legal protection, and the values of justice that develop in the modern legal state (*Rr. Dijan Widijowati*, 2022).

The reform of criminal law through the National Criminal Code is not only related to changes in legal norms, but also reflects a paradigm shift in the penal system. The National Criminal Code prioritizes a balance between the interests of individuals, society, victims, and the state. In addition, the National Criminal Code also places rehabilitation, social reintegration, and restorative justice as an important part of the goals of punishment. This paradigm shows a tendency to reduce the use of prison sentences as the only means of solving criminal law problems.

In the development of modern criminal law policy, the concept of decriminalization emerged as an alternative in responding to various acts that were previously categorized as criminal acts. Decriminalization is basically a legal policy that eliminates the criminal nature of a certain act without eliminating its socially reprehensible nature. Decriminalization is different from legalization and decriminalization. Decriminalization does not legalize an act, but rather changes the form of the state's response to the act by reducing the use of criminal means and prioritizing other approaches that are considered more effective and proportionate.

In various countries, decriminalization policies against narcotics abuse have developed as part of the *public health approach*. Narcotics abusers are no longer positioned as mere

criminals, but as individuals who need recovery through medical rehabilitation and social rehabilitation. This approach is based on the view that criminalization of narcotics abusers is not always effective in overcoming narcotics dependence or reducing the rate of narcotic abuse.

Rr. Dijan Widiowati emphasized that for narcotics abusers, especially those in vulnerable conditions, rehabilitation approaches need to be prioritized because they are more in line with the goals of legal protection and recovery than the criminal approach alone.

After the enactment of Law Number 1 of 2023 concerning the Criminal Code, questions have arisen regarding the suitability of the regulation of narcotics abuse in Law Number 35 of 2009 with the direction of national criminal law reform. This issue is important because there is a potential for disharmony between the penal approach that still places narcotics abusers as perpetrators of criminal acts and the new paradigm of the National Criminal Code that emphasizes corrective, restorative, and rehabilitative aspects. This condition raises the need to review whether narcotics abusers are still appropriately positioned as perpetrators of criminal acts or more appropriately positioned as legal subjects who require rehabilitation measures.

A lot of research on narcotics abuse has been conducted, both discussing rehabilitation policies, the narcotics penalization system, restorative justice, and narcotics eradication policies. However, research that specifically examines the decriminalization of narcotics abusers after the enactment of Law Number 1 of 2023 concerning the Criminal Code is still very limited. In addition, there has not been much research that connects the concept of decriminalization with the principle of *ultimum remedium* as the basis for reforming criminal law policies against narcotics abusers. This condition shows that there is a research gap that still requires further study both from the perspective of criminal law policy and national criminal law reform.

The research that is related to this study was conducted by Wulandari, Rr. Dijan Widiowati, and Zein entitled *Criminal Responsibility of Perpetrators of Drug Abuse by Children Based on Law Number 11 of 2012 concerning the Juvenile Criminal Justice System*. The results of the study show that the rehabilitation approach is more appropriate to be applied to narcotics abusers than the repressive penal approach. The study emphasizes that the goal of handling narcotics abusers is not only oriented towards punishment, but also on recovery and social reintegration. However, the study focuses on the criminal liability of child drug abusers from the perspective of the Juvenile Criminal Justice System, while this study examines the decriminalization of narcotics abuse after the enactment of Law Number 1 of 2023 concerning the Criminal Code and its relevance to the principle of *ultimum remedium* as the basis for criminal law policy reform in Indonesia. (Wulandari, Rr. Dijan Widiowati, and Zein, 2026)

This research has urgency both theoretically and practically. Theoretically, this research is expected to enrich the study of criminal law policies, decriminalization, and national criminal law reform. Practically, this research is expected to provide recommendations for lawmakers and law enforcement officials in formulating more effective policies against narcotics abusers. In addition, normatively this research is important to provide clarity on the relationship between Law Number 35 of 2009 concerning Narcotics and Law Number 1 of 2023 concerning the Criminal Code.

This research is relevant to be conducted in order to analyze the suitability of criminal law policies against narcotics abuse with the direction of national criminal law reform that is more in line with the modern criminal law reform paradigm. In addition, this research is also expected to provide a legal construction regarding the possibility of decriminalization of narcotics abuse as part of future criminal law policies (*ius constituendum*).

Based on this description, the enactment of the National Criminal Code brings a new paradigm in the Indonesian criminal system that emphasizes corrective, restorative, and rehabilitative approaches. However, there is still debate about how criminal law policies for narcotics abusers after the enactment of the National Criminal Code and the extent to which the concept of decriminalization can be applied in accordance with the principle of *ultimum*

remedium. Therefore, this study is important to examine the regulation of criminal law policies on narcotics abuse after the enactment of the National Criminal Code and analyze the application of decriminalization against narcotics abusers to be in line with the principle of *ultimum remedium*.

Based on the background of the research, the formulation of the problem in this study is as follows, How is the regulation of criminal law policy on narcotics abuse after the enactment of the National Criminal Code and How decriminalization is applied to narcotics abusers in accordance with the principle of *ultimum remedium*.

METHODS

This research is *normative legal research*. Normative legal research places law as norms, rules, principles, doctrines, and applicable laws and regulations. This research is prescriptive because it not only examines the applicable legal norms, but also provides arguments about the construction of decriminalization of narcotics abuse in accordance with the paradigm of national criminal law reform and the principle of *ultimum remedium* (Soekanto & Mamudji, 2019). This study uses a statute *approach*, a *conceptual approach*, a *historical approach*, and a *comparative approach* (Marzuki, 2021). The statutory approach is used to study Law Number 35 of 2009 concerning Narcotics and Law Number 1 of 2023 concerning the Criminal Code. The conceptual approach is used to analyze the concepts of criminal law policy, decriminalization, rehabilitation, criminalization, and *ultimum remedium*. The historical approach is used to understand the development of criminal law policies on narcotics abuse, while the comparative approach is used by examining decriminalization policies in Portugal, the Netherlands, the Czech Republic, and Switzerland. The legal materials used consist of primary, secondary, and tertiary legal materials.

Primary legal materials include the 1945 Constitution of the Republic of Indonesia, Law Number 35 of 2009 concerning Narcotics, Law Number 1 of 2023 concerning the Criminal Code, as well as relevant court regulations and decisions. Secondary legal materials include law books, scientific journals, research results, theses, dissertations, scientific articles, and legal expert opinions, while tertiary legal materials include legal dictionaries, encyclopedias, and other reference sources (Marzuki, 2021). The collection of legal materials is carried out through *library research* by inventorying laws and regulations, reviewing literature and scientific journals, identifying legal doctrines, and reviewing relevant court decisions. All legal materials are then classified based on their relationship to the formulation of research problems (Waluyo, 2022). Legal materials are analyzed qualitatively using legal interpretation and legal argumentation. The analysis is carried out through grammatical, systematic, and teleological interpretations to understand the provisions regarding narcotics abuse and the relationship between Law Number 35 of 2009 and Law Number 1 of 2023. Furthermore, legal arguments are used to analyze the possibility of decriminalizing narcotics abuse, while prescriptive analysis is used to formulate the construction of criminal law policies that should be applied in the future (*ius constituendum*) (Marzuki, 2021).

RESULTS AND DISCUSSION

Regulation of Criminal Law Policy on Narcotics Abuse After the Enactment of the National Criminal Code

The regulation of narcotics abuse after the enactment of the National Criminal Code shows that there is a problem of disharmony between Law Number 35 of 2009 concerning Narcotics and Law Number 1 of 2023 concerning the Criminal Code. The Narcotics Law still places narcotics abuse as an act that can be subject to criminal sanctions, while the development of criminal law policies in the National Criminal Code emphasizes corrective, rehabilitative, restorative, and reintegrative approaches. These differences in orientation show that criminal

law policies against narcotics abusers still need adjustments so that there is no conflict between the purpose of criminalization and the need for recovery of abusers.

Article 127 of Law Number 35 of 2009 is one of the main provisions that raises this problem because it regulates criminal threats against people who abuse narcotics for themselves. This provision shows that the use of narcotics for oneself is still placed in the realm of criminal law. On the one hand, this approach is needed to maintain legal certainty and prevent narcotics abuse, but on the other hand, it can cause problems if applied equally to users who actually experience dependence and need medical and social treatment.

This problem is increasingly visible because Law Number 35 of 2009 at the same time also provides space for rehabilitation. Article 54 stipulates that narcotics addicts and victims of narcotics abuse are required to undergo medical rehabilitation and social rehabilitation. Article 55 regulates the obligation of addicts to undergo rehabilitation, while Article 103 gives the authority to judges to order addicts to undergo treatment and/or treatment through rehabilitation. This condition shows that there are two orientations in one law, namely the orientation of criminalization through Article 127 and the orientation of recovery through rehabilitation provisions.

According to Barda Nawawi Arief, criminal law policy is part of a crime prevention policy that must pay attention to the purpose of community protection and community welfare. The use of criminal law is not only oriented towards inflicting suffering on the perpetrator, but must also consider the effectiveness, proportionality, and rationality of the penalty. In the context of narcotics abuse, this approach becomes relevant because not all abusers have the same characteristics as the perpetrators involved in the production, trafficking, or trafficking network of narcotics. (Barda Nawawi Arief, 2016)

The enactment of the National Criminal Code further strengthens the need for this change in orientation. Law Number 1 of 2023 places criminalization in a framework that is not solely retributive, but also includes the prevention of criminal acts, corrections, conflict resolution, balance restore, and social reintegration. This paradigm change provides a basis for restructuring criminal law policies against narcotics abusers so that criminalization does not automatically become the main response when there is a recovery mechanism that is more in line with the perpetrator's condition.

In the relationship between Law Number 35 of 2009 and the National Criminal Code, the Narcotics Law still has a position as a *lex specialis* in regulating narcotics crimes. However, this special nature does not mean that its policies do not need to be aligned with the development of national criminal law. Harmonization is needed, especially with provisions related to abusers, addicts, victims of abuse, criminalization, and rehabilitation so that the application of the law does not cause a difference in orientation between punishment and rehabilitation.

This disharmonization is not only seen in differences in norms, but can also affect its application. Abusers who have a condition of dependence can face criminal proceedings, while at the same time normatively requiring rehabilitation. Differences in the use of assessment results, considerations of law enforcement officials, and the application of rehabilitation provisions can cause the handling of abusers to be not uniform. This shows the importance of mechanisms that are able to clearly distinguish between abusers for themselves, addicts or victims of abuse, and perpetrators involved in illicit trafficking networks.

Criminal law policy on narcotics abuse also needs to pay attention to the principle of proportionality. Abusers who use narcotics for themselves have different characteristics and handling needs from narcotics producers, dealers, or dealers. This distinction is important so that the use of criminal sanctions is not carried out excessively against those who are more in need of rehabilitative intervention. Such an approach is in line with the development of criminal policies that place community protection not only through punishment, but also through recovery and prevention so that abusers do not return to abusing narcotics.

Therefore, the reform of criminal law policy against narcotics abusers is not directed at the elimination of all narcotics criminal provisions. The reformulation is more directed at rearranging the position of abusers who use narcotics for themselves and are not involved in illicit trafficking networks. Criminal provisions are still needed for producers, dealers, dealers, and parties involved in illicit narcotics trafficking. Meanwhile, for abusers who meet the criteria for rehabilitation, the recovery approach needs to be placed as an important part of criminal law policy.

The regulation of criminal law policies on narcotics abuse after the enactment of the National Criminal Code thus leads to the need for harmonization between Law Number 35 of 2009 and Law Number 1 of 2023. Narcotics abuse for oneself needs to be distinguished from criminal acts related to illicit trafficking of narcotics, while maintaining firmness against the circulation network. This policy places rehabilitation as an important instrument in handling abusers, while prison sentences are used more limited and proportionate according to the characteristics and level of involvement of the perpetrator.

Decriminalization of Narcotics Abuse Based on the Principle of *Ultimum Remedium*

The concept of decriminalization of narcotics abuse became relevant after the enactment of the National Criminal Code due to a change in orientation in the Indonesian penal system. The National Criminal Code places criminalization not only as a means of retribution, but also as an instrument for correction, rehabilitation, conflict resolution, and social reintegration. The amendment provides a basis for reviewing the criminal use of narcotics against narcotics abusers, especially for people who use narcotics for themselves and do not have involvement in illicit trafficking networks. In these conditions, the main question is not solely whether narcotics abuse remains a prohibited act, but whether every abuser must always receive a response in the form of imprisonment. The perspective of decriminalization provides space to reorganize the state's response so that the use of criminal means is carried out in a limited manner and in accordance with the needs of handling.

Decriminalization in this study is not interpreted as legalization of narcotics. Decriminalization is a change in policy towards certain acts that were previously punishable, so that the state's response is no longer solely using criminal means. Barda Nawawi Arief explained that decriminalization is a form of policy in the rationalization of criminal law related to the elimination of the criminalization of a certain act. Therefore, decriminalization is different from legalization which makes an act legally permissible. In the context of narcotics abuse, the concept studied is directed limited to self-abusers who meet certain criteria, not to all forms of acts related to narcotics.

These restrictions are important because the decriminalization policy cannot be applied equally to all perpetrators of narcotics crimes. Self-abusers who experience dependence have different problems from producers, dealers, dealers, or parties involved in narcotics distribution. Parties involved in illicit trafficking networks have a position closer to the source and spread of narcotics crimes, so the interest of public protection requires the continued use of criminal means. On the other hand, abusers who use narcotics for themselves and experience dependence require interventions oriented towards recovery. This distinction is an important basis so that decriminalization does not develop into the elimination of all narcotics criminal policies.

The application of decriminalization to abusers is also directly related to the principle of *ultimum remedium*. Sudarto explained that criminal law is essentially the last means of dealing with an act that is detrimental to the interests of society. The use of criminal law needs to be done carefully by considering whether there are other means that can provide protection and settlement more effectively. (Sudarto, 2018) In the case of narcotics abuse, rehabilitation is a form of treatment that can be used before making prison as the main response. Therefore, *ultimum remedium* does not mean eliminating the criminal law, but placing the criminal in the

last position after considering the condition of the abuser and the effectiveness of the available recovery mechanisms.

Rehabilitation is an important part of this construction because narcotics abuse can be related to dependency that requires medical and social treatment. Law Number 35 of 2009 itself has recognized medical rehabilitation and social rehabilitation as a form of treatment for addicts and victims of narcotics abuse. Medical rehabilitation is oriented towards the recovery of health conditions and dependence, while social rehabilitation is directed at the restoration of the individual's ability to carry out social functions. If the purpose of handling abusers is to reduce dependence and prevent re-abuse, then rehabilitation has a different function from prison sentence. Prison sentences mainly limit individual freedom, while rehabilitation is directly directed to the needs of recovery.

Determining whether a person can obtain a rehabilitative approach cannot be done automatically based solely on recognition as a user. An objective and accountable assessment is needed to determine a person's condition and treatment needs. Integrated assessments are important to see if a person is an addict, victim of abuse, or abuser in need of rehabilitation, as well as to assess the level of dependency and other relevant factors. This mechanism can be an instrument to prevent the application of decriminalization too widely. With assessments, rehabilitation policies can be provided based on provable conditions and not solely because someone is caught using narcotics.

The construction can be placed in a two-track system or *double track system*, namely the use of criminals and actions according to the characteristics of the perpetrators and their deeds. The criminal route is still used against perpetrators who have involvement in the production and illicit circulation of narcotics. Meanwhile, the path of action in the form of rehabilitation can be prioritized for addicts or victims of abuse who meet the requirements. The system allows the criminal law to continue to carry out the function of protecting the community while providing space for recovery for individuals who experience dependence. Thus, the application of *ultimum remedium* does not eliminate the function of law enforcement, but reregulates when and against whom prison sentences need to be used.

From the perspective of criminal law policy theory, the application of limited decriminalization is a form of rationalization of the use of penal means. Barda Nawawi Arief places criminal law policy as part of a social policy that must pay attention to community protection and community welfare. If prison is not the most appropriate instrument to deal with narcotics dependence, then the use of rehabilitation can be considered as a means that is more in line with the needs of abusers. This does not mean that the interests of the community are ignored. Community protection remains the main goal, but it is carried out through a combination of eradication of illicit trafficking, prevention of abuse, rehabilitation, and social reintegration (Barda Nawawi Arief, 2014).

Based on the theory of decriminalization, policy changes against abusers can be directed at the reformulation of Article 127 of Law Number 35 of 2009. The reformulation does not have to be interpreted as the elimination of all criminal provisions against narcotics users, but as a rearrangement of qualifications and legal responses to abusers for themselves. Abusers who based on an integrated assessment are proven to be addicts or victims of abuse can be directed to rehabilitation as the main response. Meanwhile, prison sentences can be used when there are conditions that show that rehabilitation does not meet the requirements or there is involvement in illicit trafficking networks. With this model, decriminalization has clear boundaries and remains within the framework of community protection.

The implementation of decriminalization in accordance with the principle of *ultimum remedium* ultimately requires a change of orientation from the dominance of punishment to a balance between law enforcement and rehabilitation. Narcotics abusers for themselves who are proven to be dependent or victims of abuse need to obtain rehabilitation priorities based on objective and integrated assessments. On the other hand, producers, dealers, and parties

involved in illicit trafficking networks are still subject to criminal sanctions because their actions have different characteristics and impacts. This construction makes decriminalization a limited, selective, and measurable policy, with prison sentences still maintained as the *ultimate remedium* and rehabilitation being placed as the main instrument for abusers who meet the requirements for rehabilitation.

CONCLUSIONS AND RECOMMENDATIONS

Conclusion

1. The regulation of criminal law policies on narcotics abuse after the enactment of Law Number 1 of 2023 concerning the Criminal Code still shows that there is a disharmony between the provisions in Law Number 35 of 2009 concerning Narcotics and the criminal paradigm developed in the National Criminal Code. This disharmonization can be seen from the continued criminalization of narcotics abusers through Article 127 of Law Number 35 of 2009, while Article 54, Article 55, and Article 103 regulate rehabilitation obligations for addicts and victims of narcotics abuse, thus causing dualism in the position of narcotics abusers as perpetrators of criminal acts as well as individuals who need recovery through rehabilitation. Based on the Grand Theory of Criminal Law Policy Barda Nawawi Arief, these conditions do not fully reflect the principles of rationality, effectiveness, and proportionality in the use of criminal law because criminal law is supposed to be used to achieve the protection and welfare of the community. The enactment of the National Criminal Code brings a change in the criminal paradigm that emphasizes more on coaching, rehabilitation, restoring balance, and social reintegration, so that the regulation of narcotics abusers in Law Number 35 of 2009 needs to be harmonized with this paradigm in order to create more proportionate legal certainty and criminal law policies.
2. The implementation of decriminalization of narcotics abusers in accordance with the principle of *ultimum remedium* is not interpreted as the elimination of the unlawful nature of narcotics abuse or the legalization of narcotics, but as a reformulation of criminal law policies that limit the use of prison sentences for abusers who use narcotics for themselves and are proven to be addicts or victims of abuse based on the results of an integrated assessment. The results of the analysis show that rehabilitative approaches are more suitable for abusers who meet these criteria, while for producers, dealers, and parties involved in narcotics illicit trafficking networks, strict law enforcement is still needed. In the Indonesian context, rehabilitation needs to be placed as a form of prioritized settlement for addicts or victims of abuse, while prison sentences are still placed as the *ultimate remedium* for abusers who do not meet the rehabilitation requirements or are proven to be involved in the narcotics illicit trafficking network. The model is in line with the Grand Theory of Criminal Law Policy, Middle Theory of Decriminalization, Applied Theory *Ultimum Remedium*, the purpose of criminalization in the National Criminal Code, and the development of international narcotics policy.

Recommendations

1. Reform and Structuring of Legal Substance, Based on Lawrence M. Friedman's Legal System Theory, the reform of the legal system needs to be directed at the aspect of legal substance, namely rules, norms, and legal provisions that are the basis for resolving narcotics abuse cases. Lawmakers need to harmonize and rearrange the provisions in Law Number 35 of 2009 concerning Narcotics with Law Number 1 of 2023 concerning the Criminal Code, especially regarding the position of narcotics abusers, the application of Article 127, rehabilitation mechanisms, and the application of the principle of *ultimum remedium*. The arrangement of the substance of the law needs to clarify the distinction between drug abusers for themselves and perpetrators of illicit narcotics trafficking and

emphasize that rehabilitation is a prioritized solution for abusers who, based on an integrated assessment, are proven to be addicts or victims of abuse, while prison sentences are placed as a last resort.

2. Law enforcement officials, especially investigators, public prosecutors, and judges, need to strengthen and optimize the application of integrated assessment mechanisms in determining the form of settlement of narcotics abuse cases. The results of integrated assessments need to be placed as the main basis in determining whether abusers are directed to undergo rehabilitation or criminal proceedings, accompanied by increased coordination between law enforcement officials and related institutions in handling narcotics and rehabilitation. Improving the legal structure is needed so that the implementation of provisions on rehabilitation and ultimate remedium can run consistently, provide legal certainty, and support the achievement of corrective, rehabilitative, restorative, and social-reintegration-oriented penalization goals.

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