



LAW ENFORCEMENT AGAINST NARCOTICS ABUSE FROM THE PERSPECTIVE OF CRIMINAL LAW IN INDONESIA

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(Naskah diterima: 1 October 2025, disetujui: 28 October 2025)

Abstract

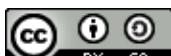
Drug abuse is an extraordinary crime because its impacts not only threaten individual health but also damage the social fabric and the nation's future generations. Law No. 35 of 2009 concerning Narcotics serves as a form of legal protection and a repressive measure by the state to combat drug abuse and illicit trafficking. However, in practice, law enforcement still finds disparities between users, dealers, and dealers. Many users who should receive rehabilitation are instead sentenced to prison, while dealers receive reduced sentences. This study aims to examine the effectiveness of law enforcement against drug abuse in Indonesia, the inhibiting factors, and solutions that can be implemented to achieve substantive justice. This study uses a normative juridical method with a statutory and conceptual approach. The results indicate that law implementation has not been effective due to weak coordination between law enforcement agencies and low public legal awareness.

Keywords: Law enforcement, Narcotics, Criminal law, Rehabilitation, Law No. 35 of 2009

Abstrak

Penyalahgunaan narkotika merupakan kejahatan yang bersifat luar biasa (extraordinary crime) karena dampaknya tidak hanya mengancam kesehatan individu, tetapi juga merusak tatanan sosial dan generasi bangsa. Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika hadir sebagai bentuk perlindungan hukum serta upaya represif negara dalam menanggulangi penyalahgunaan dan peredaran gelap narkotika. Namun, dalam praktik penegakan hukumnya masih ditemukan ketimpangan antara pengguna, pengedar, dan bandar. Banyak pengguna yang semestinya mendapatkan rehabilitasi justru dijatuhi pidana penjara, sedangkan pengedar mendapat keringanan hukuman. Penelitian ini bertujuan untuk mengkaji efektivitas penegakan hukum terhadap penyalahgunaan narkotika di Indonesia, faktor penghambatnya, serta solusi yang dapat diterapkan untuk mencapai keadilan substantif. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan perundangan dan konseptual. Hasil penelitian menunjukkan bahwa implementasi hukum belum berjalan efektif akibat lemahnya koordinasi antarpenegak hukum dan rendahnya kesadaran hukum masyarakat.

Kata kunci: Penegakan hukum, Narkotika, Hukum pidana, Rehabilitasi, UU No. 35 Tahun 2009



I. INTRODUCTION

Narcotics are substances or drugs that can cause decreased consciousness, loss of pain sensation, and dependence in users. According to Article 1, number 1 of Law Number 35 of 2009 concerning Narcotics, narcotics are substances or drugs derived from plants or non-plants, whether synthetic or semi-synthetic, that can cause decreased or altered consciousness and lead to dependence. Drug abuse in Indonesia has reached alarming levels. According to a 2024 report from the National Narcotics Agency (BNN), the number of drug abusers in Indonesia reached more than 4 million people spread across all provinces. This data shows that the threat of narcotics is not limited to large cities, but has also spread to rural areas.

Narcotics crimes are categorized as extraordinary crimes because they have multidimensional impacts on individuals, families, communities, and the nation. These crimes are often committed in an organized manner and involve transnational organized crime networks, so eradication requires a firm and comprehensive legal strategy.

The government has attempted to eradicate drug abuse through the enactment of Law Number 35 of 2009 concerning Narcotics, which replaced Law Number 22 of 1997. This law regulates in detail the objectives of drug control, as stated in Article, namely:

- a. ensuring the availability of narcotics for the benefit of health services and/or the development of science and technology;
- b. preventing, protecting, and saving the Indonesian nation from drug abuse;
- c. eradicating the illicit trafficking of narcotics and narcotic precursors; and
- d. ensuring the regulation of medical and social rehabilitation efforts for drug abusers and addicts.⁴

These objectives demonstrate that Law Number 35 of 2009 is not only repressive in nature but also has preventive and rehabilitative functions. This means that this law does not solely punish perpetrators but also protects drug users as victims of addiction. However, its implementation in the field is often inconsistent; law enforcement remains more focused on punishment than rehabilitation.

This imbalance in law enforcement raises major questions about the effectiveness of criminal law in reducing drug abuse. Article 127 of Law No. 35 of 2009 stipulates that drug users proven to only use drugs for personal use can be sentenced to rehabilitation, not

imprisonment. However, in reality, law enforcement officials often do not apply this provision consistently.

From a criminal law perspective, drug users can be categorized as victims in need of protection and rehabilitation, not simply as perpetrators of crimes. This aligns with the restorative justice approach being developed in Indonesia to replace the retributive paradigm that focuses solely on punishment.

Weak coordination between the police, prosecutors, and courts is a major factor contributing to the ineffective implementation of the Narcotics Law. Furthermore, many officials still don't understand the difference between drug users and dealers. This leads to disparities in court decisions and creates legal uncertainty for the public.

In practice, many judges impose sentences below the minimum criminal penalties stipulated in Articles 112 and 114 of the Narcotics Law for humanitarian or other subjective reasons. This, however, has the potential to lead to disparities in sentencing and reduce the deterrent effect on perpetrators.

Law enforcement against drug crimes should adhere to the principle of substantive justice, namely the balance between legal certainty and a sense of justice in society. Therefore, an evaluation of the implementation of Law No. 35 of 2009 is needed, as well as an increase in the capacity of law enforcement officials to understand the substance of the regulation.

II. RESEARCH METHODS

This research uses a normative juridical research method, namely legal research conducted by reviewing library materials or secondary data consisting of primary, secondary, and tertiary legal materials.

The approaches used in this research include:

1) Statutory Approach, which examines the provisions of laws and regulations governing narcotics crimes, particularly Law Number 35 of 2009 concerning Narcotics and its implementing regulations, such as Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts.

2) Conceptual Approach, which examines criminal law concepts and theories related to law enforcement, punishment, and rehabilitation for drug abusers. This approach is used to understand the essence of substantive justice and the paradigm shift from retributive justice to

restorative justice. 3) The Case Approach was used to analyze court decisions related to drug abuse, reflecting the disparity between users and dealers. This approach helped the author understand how the application of the law in the field often does not align with the norms stipulated in the law.

The legal materials used include:

- Primary legal materials, namely laws and regulations, such as the 1945 Constitution of the Republic of Indonesia, the Criminal Code, Law No. 35 of 2009 concerning Narcotics, and court decisions related to narcotics cases.
- Secondary legal materials, namely literature, books, scientific journals, articles, and previous research results relevant to the topic.
- Tertiary legal materials, namely supporting materials such as legal dictionaries and legal encyclopedias.

Data analysis was conducted qualitatively, by interpreting laws and legal theories related to law enforcement against drug abuse. The purpose of this analysis is to find the correspondence between legal norms and their implementation in practice, as well as to provide legal policy recommendations that can improve the special criminal law enforcement system in Indonesia.

III. RESEARCH RESULTS

1. Law Enforcement Against Drug Abuse in Indonesia

Law enforcement against drug crimes in Indonesia has a strong legal basis, as stipulated in Law Number 35 of 2009 concerning Narcotics. This law not only serves as a repressive tool in combating drug crimes but also contains preventive and rehabilitative elements for victims of abuse. In the context of criminal law enforcement, narcotics are categorized as extraordinary crimes that require extraordinary efforts from law enforcement officials. Therefore, the enforcement system must be implemented comprehensively, from prevention through investigation and prosecution to the implementation of court decisions. In the prevention phase, the role of the National Narcotics Agency (BNN) is key because this institution has strategic authority to coordinate national policies in the field of drug eradication. However, in its implementation, the BNN's role is often suboptimal due to limited human resources and budget, resulting in prevention efforts lagging behind the increasingly widespread illicit trafficking in society.

According to Article 2 of Law Number 35 of 2009, the implementation of narcotics policy in Indonesia is based on the principles of justice, humanity, balance, and protection. This principle ensures that law enforcement does not solely emphasize punishment but also considers the human rights of perpetrators, most of whom are victims of substance dependence. When this humanitarian principle is ignored, law enforcement actually gives rise to new injustices, namely the imprisonment of victims who should be rehabilitated. Many users who are actually eligible for medical rehabilitation as stipulated in Article 54 of the Narcotics Law are sentenced to prison because they are deemed not to meet the formal requirements for rehabilitation. This situation demonstrates that the substance of the law, which accommodates social justice, is often not properly translated by law enforcement officials in the field.

The stages of law enforcement against narcotics abuse involve three main components: investigation, prosecution, and sentencing in court. During the investigation phase, authority rests with the Indonesian National Police (Polri) and the National Narcotics Agency (BNN). They are authorized to make arrests, search, and confiscate evidence in accordance with the provisions of the Criminal Procedure Code (KUHAP) and the Narcotics Law. During the prosecution phase, prosecutors are responsible for assessing whether the perpetrator's actions meet the elements of the articles charged, while judges are authorized to determine the severity of the sentence based on the evidence and facts presented at trial. These three institutions must work synergistically to prevent human rights violations against suspects or defendants. However, the facts on the ground show that coordination between law enforcement agencies remains weak this often leads to differing interpretations of certain articles, particularly those distinguishing between users and dealers.

In judicial practice, judges play a central role in progressively interpreting the articles of the Narcotics Law. Judges must not only rely on the formal elements of the crime but must also consider the psychological and social conditions of the defendant. Many cases demonstrate that defendants are addicts whose addiction stems from environmental factors or social pressure. In such cases, judges should prioritize the principle of substantive justice by imposing rehabilitation sentences, rather than imprisonment. An example is the Surabaya District Court Decision No. 842/Pid.Sus/2021/PN Sby, where a defendant proven to be only a user was sentenced to six months of rehabilitation at a social rehabilitation institution. This

decision reflects a new awareness among judges to view drug abusers not merely as perpetrators of crimes, but also as victims in need of healing.

Despite the comprehensive legal framework, implementation in the field still faces serious obstacles. One major obstacle is the differing understanding among law enforcement officials regarding the criteria for users and dealers. Many cases have seen individuals with only small amounts of evidence being categorized as dealers, when in fact they should be considered personal users. Consequently, perpetrators face severe penalties as stipulated in Articles 112 and 114 of the Narcotics Law, with a minimum sentence of four years in prison. This disparity creates disparities in sentencing in court, where two defendants in similar cases can receive drastically different verdicts.

Data from the National Narcotics Agency shows that in 2023, approximately 70% of drug convicts in Indonesia were users, not dealers. This demonstrates that the justice system still emphasizes imprisoning users rather than providing rehabilitation opportunities. In fact, excessive prison policies actually worsen social conditions because prisons become gathering places for users and dealers, expanding drug distribution networks within correctional facilities. Therefore, law enforcement policies oriented toward punishment need to be evaluated to restore the rehabilitative essence of the Narcotics Law.

In the context of modern criminal law, law enforcement against drug abusers cannot be achieved solely through a repressive approach. A more humane approach, such as restorative justice, needs to be implemented to create a balance between legal certainty, expediency, and justice. Restorative justice encourages law enforcement to prioritize the rehabilitation of perpetrators and victims rather than simply punishing them. In the context of drug abuse, offenders need to be placed in structured rehabilitation programs so they can return to society with improved mental and social well-being. Furthermore, the implementation of restorative justice can reduce the burden on correctional institutions, which are currently overcrowded due to the predominance of drug cases.

2. Factors Hindering Law Enforcement Against Drug Abuse in Indonesia

Law enforcement against drug abuse in Indonesia is inextricably linked to various obstacles that impact its effectiveness. One major obstacle is differences in perception and interpretation among law enforcement agencies, particularly police, prosecutors, and judges, in interpreting the provisions of Law Number 35 of 2009. In many cases, police officers

consider any possession of narcotics to be an indication of distribution, even though not all cases qualify as such. This leads to legal disparities, where users who should be undergoing rehabilitation are instead sentenced to prison. Furthermore, coordination between law enforcement agencies is often ineffective due to sectoral egos. Each agency tends to maintain its own authority without prioritizing synchronization in comprehensive and equitable law enforcement efforts.

A second factor is the limited rehabilitation facilities and resources available in Indonesia. Although Law Number 35 of 2009 requires the government to provide medical and social rehabilitation facilities for drug abusers, these facilities are still very limited and unevenly distributed across Indonesia. Many areas outside Java lack rehabilitation centers, leaving users in these areas with no alternative but to serve a prison sentence.²⁶ This lack of facilities has a direct impact on the implementation of Articles 54 and 127 of the Narcotics Law, which should provide rehabilitation opportunities for addicts. As a result, the rehabilitation policy mandated by the law remains only a legal norm on paper without any real implementation in the field.

Another factor is law enforcement officials' lack of understanding of the concept of restorative justice and the differences between drug users, addicts, and dealers. In many cases, investigators often charge suspects with harsh articles, such as Articles 112 and 114, which are intended for dealers, without considering the defendant's personal and social context. This attitude demonstrates the persistence of a retributive paradigm in our criminal justice system, namely the view that every violation of the law must be met with appropriate punishment regardless of the perpetrator's social background. However, in modern criminal law, particularly restorative justice, drug users are more appropriately positioned as victims in need of rehabilitation rather than punishment.

Another equally significant obstacle is the overlapping and disharmonious nature of laws and regulations. Although the Narcotics Law is *lex specialis*, in practice, irrelevant articles of the Criminal Code are still applied. For example, the use of general articles regarding evidence or possession of dangerous objects can lead to multiple interpretations and legal uncertainty. This disharmony is further exacerbated by the existence of internal policies from each institution, such as National Police regulations or Supreme Court Circulars, which sometimes have conflicting implementations. As a result, the legal process

is inefficient and often disadvantageous to defendants, especially those who are merely victims of abuse.

Another significant factor is the lack of legal awareness and public participation in preventing drug abuse. Many people still view drug addicts as criminals, not victims in need of medical assistance. This perception creates a strong social stigma against users, making them reluctant to report for rehabilitation. However, Article 55 of the Narcotics Law provides addicts with the opportunity to report themselves to receive treatment without the threat of criminal penalties. Low public legal literacy makes this policy ineffective, leading addicts to choose to hide rather than seek help.

Furthermore, the influence of organized crime networks and economic factors also act as significant obstacles. The illicit trafficking of narcotics in Indonesia is largely controlled by international syndicates with large capital and extensive networks. These networks often involve law enforcement officials through bribery, gratuities, and abuse of authority. This phenomenon makes drug eradication not only a legal issue, but also a moral and integrity issue for state officials. In several cases, such as those uncovered by the National Narcotics Agency (BNN) in 2022, security forces were found to be involved in aiding drug smuggling by sea and air. This undoubtedly weakens public trust in law enforcement and creates the impression that the law is sharp at the bottom but blunt at the top.

Another obstacle is overcrowding in correctional facilities due to the dominance of drug cases. Data from the Directorate General of Corrections (Ditjen PAS) shows that by 2024, approximately 60–70% of prisoners across Indonesia will be drug offenders. This situation makes correctional facilities unsuitable for rehabilitation and often becomes a hub for new drug trafficking. Prisons, which should be places of rehabilitation, have instead become fertile ground for drug transactions due to weak internal oversight. Therefore, the paradigm of mass imprisonment must be evaluated and replaced with more humane policies such as community-based rehabilitation.

From the above description, it can be concluded that obstacles to law enforcement against drug abuse are not only technical, but also structural and cultural. Technical barriers include limited facilities and weak coordination between law enforcement agencies, while structural barriers relate to overlapping regulations and weak oversight systems. Cultural barriers stem from low public legal awareness and the social stigma against addicts.

Therefore, law enforcement efforts must be carried out holistically by strengthening regulatory aspects, increasing the capacity of officers, and changing the public's perspective on drug abusers so that they are no longer treated as criminals, but rather as human beings in need of recovery.

3. Law Enforcement Efforts and Solutions for Drug Abuse in Indonesia

Law enforcement efforts against drug abuse in Indonesia require a comprehensive and integrative approach, encompassing legal, social, medical, and moral aspects. Law enforcement is not sufficient to simply prosecute perpetrators; it must also address the root causes of the increasing drug abuse. One key effort is strengthening the preventive function through legal education and public awareness of the dangers of drugs.³⁴ Massive legal education in schools, universities, and communities can raise awareness that narcotics is not only a legal issue, but also a health and social issue that requires collective action. The National Narcotics Agency (BNN) and the police must collaborate with religious leaders, community leaders, and educational institutions to convey moral and legal messages about the dangers of drug abuse.

On the other hand, increasing the capacity of law enforcement officers is also a crucial step. Law enforcement officers need to be equipped with a comprehensive understanding of the differences between drug users, addicts, and dealers. Many cases demonstrate that officers at the investigative level still lack a thorough understanding of the provisions of Articles 54 and 127 of the Narcotics Law, which regulate the obligation to rehabilitate drug abusers. Training and technical guidance must be provided regularly to police officers, prosecutors, and judges so they can interpret the law progressively and humanely. This way, law enforcement will no longer be solely oriented toward punishment, but also toward individual recovery. This effort will also encourage the implementation of the concept of restorative justice, which is now the direction of modern criminal law policy in Indonesia.

The government also needs to strengthen community-based rehabilitation policies. This program has been implemented in several countries, such as Portugal and Canada, where drug addicts are directed to undergo treatment in community centers under the supervision of medical and social workers. This concept is more effective than imprisonment because it focuses on the mental, spiritual, and social recovery of drug abusers. Indonesia already has a legal basis for this program through Articles 54–59 of the Narcotics Law, but its

implementation remains very limited. Therefore, local governments need to be given special authority and budgets to establish community rehabilitation centers that can reach rural areas.

Furthermore, reform of the criminal justice system in handling drug cases is necessary. The current repressive justice system must be transformed into a more selective and proportional system. For example, by establishing special drug courts that focus on rehabilitation efforts, not just punishment. Such courts have been successfully implemented in several countries, such as the United States and Thailand, where judges collaborate with psychologists, doctors, and social workers to determine appropriate rehabilitation steps for users. Indonesia can emulate this model so that not all drug cases end in prison, but rather are directed towards recovery.

The role of the family and social environment cannot be ignored in efforts to suppress drug abuse. Many cases demonstrate that drug abuse stems from a lack of family attention, weak social control, and negative peer influences.⁴¹ Therefore, family participation in detecting and supporting family members involved in drug abuse is a crucial factor in successful rehabilitation. The government can strengthen Family Support Group (FSG) programs that involve families of addicts in the recovery process. This family-based approach has proven effective because it creates emotional support that the prison system cannot provide.

From a positive legal perspective, there is a need to revise the minimum criminal penalties in the Narcotics Law, particularly Articles 112 and 114, which often impose harsh sentences on users.⁴² Setting excessively high minimum sentences hinders judges' discretion in issuing just sentences. This revision should be aimed at clearly distinguishing between users and dealers and allowing judges to impose rehabilitation without fear of violating formal provisions. Furthermore, the revision should emphasize that addicts who self-report themselves cannot be punished, as mandated by Article 55 of the Narcotics Law.

Another equally important effort is transparent and corruption-free law enforcement. The continued involvement of certain officers in drug smuggling and distribution demonstrates the weak integrity of law enforcement.⁴³ The government needs to strengthen its internal oversight system through the National Police Commission (Kompolnas), the Prosecutorial Commission, and the Supreme Court Supervisory Body so that any irregularities can be firmly dealt with. Furthermore, the implementation of an e-court system

and the digitization of legal processes can also prevent extortion and the manipulation of case files.

Finally, international cooperation must continue to be strengthened to eradicate transnational drug networks. Indonesia has collaborated with several international institutions, such as the United Nations Office on Drugs and Crime (UNODC) and Interpol, to exchange intelligence and conduct joint operations. However, this synergy needs to be enhanced by strengthening the capacity of border and port authorities, as the largest smuggling route originates through the sea. By strengthening international cooperation, Indonesia can reduce the supply of narcotics from abroad and narrow the scope for international drug syndicates to operate. Overall, law enforcement efforts and solutions for drug abuse must be implemented simultaneously between preventive, repressive and rehabilitative policies.

This strategy requires synergy between the government, law enforcement, the public, and international institutions. Without strong coordination, law enforcement policies will become mere formalities that fail to address the root of the problem. Therefore, humane, just, and recovery-oriented law enforcement must become the new paradigm in addressing drug crime in Indonesia.

IV. CONCLUSION

Law enforcement against drug abuse in Indonesia continues to face serious challenges, both in terms of regulation, implementation, and the legal culture of society. Although Law Number 35 of 2009 concerning Narcotics provides a firm legal framework, its implementation in practice has not yet aligned with the expected spirit of substantive justice. Many drug users who should receive rehabilitation are instead sentenced to prison, while dealers receive light sentences. This situation indicates that the Indonesian criminal justice system remains predominantly oriented towards a repressive rather than a rehabilitative approach.

Key obstacles to law enforcement include weak coordination between law enforcement agencies, limited rehabilitation facilities, overlapping laws and regulations, and low public awareness of the dangers of narcotics. Furthermore, the ongoing abuse of authority by some law enforcement officials also undermines public trust in the criminal justice system. These obstacles demonstrate that law enforcement against drug abuse cannot be resolved solely

through formal legal instruments but also requires a paradigm shift and a renewal of the legal system's morals.

To address these issues, the government needs to strengthen national rehabilitation policies that focus on recovery, not just imprisonment. Increasing the number of rehabilitation institutions, improving the quality of medical personnel, and allocating adequate budgets should be top priorities. Law enforcement officers also need ongoing training and technical guidance to clearly differentiate between drug users, addicts, and dealers, as mandated by Law Number 35 of 2009. Furthermore, internal oversight of law enforcement officers needs to be tightened to suppress the potential for abuse of authority in the law enforcement process.

In addition to improvements within the law enforcement apparatus, the government must also strengthen legal education and social campaigns regarding the dangers of narcotics among schoolchildren, university students, and the general public. High legal awareness will encourage public participation in detecting and preventing drug abuse early. These efforts need to be supported by revisions to minimum criminal penalties to give judges more latitude in issuing fair and proportional sentences. A new paradigm of humanistic law enforcement based on restorative justice must guide every law enforcement agency in handling narcotics cases.

Ultimately, the success of law enforcement against drug abuse in Indonesia depends heavily on synergy between the government, law enforcement officials, the public, and international institutions. Cross-sectoral and cross-national collaboration needs to be strengthened in efforts to eradicate increasingly complex international drug networks. With firm law enforcement while upholding humanitarian values, it is hoped that law enforcement in Indonesia will reflect the principles of substantive justice as mandated by Pancasila and the 1945 Constitution of the Republic of Indonesia.

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