



LEGAL ANALYSIS OF THE APPLICATION OF CRIMINAL PENALTIES FOR PERPETRATORS OF NARCOTICS CRIMES

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Article Info	Abstract
Article History Received: 2025-08-26 Revised: 2025-08-29 Published: 2025-09-05 Keywords: <i>Narcotics, Law Enforcement, Rehabilitation</i>	This study discusses the legal status and application of criminal penalties for perpetrators of narcotics crimes from the perspective of Law Number 35 of 2009 concerning Narcotics, with a focus on implementation in the Kabanjahe Detention Center. Narcotics are basically legally recognized only for health purposes and the development of science, but in social practice they are often misused, giving rise to multidimensional problems. The law has formulated criminal provisions in Chapter XV Articles 111 to 148, which divide narcotics crimes into four main categories: possession, production and distribution, trade or intermediary, and carrying and transporting. From each of these categories, criminal sanctions are determined with different levels of severity, including provisions for rehabilitation for addicts and victims of abuse. The study results indicate that there is tension between the law on the books and the law in action. Normatively, Article 112 paragraph (1) stipulates a minimum sentence of four years for possession of class I narcotics without permission, but in practice, there are court decisions that impose lighter sentences, such as Supreme Court Decision Number 3790 K/Pid.Sus/2020. This indicates the flexibility of judges in considering the status of abusers, whether as perpetrators of criminal acts or as victims who deserve rehabilitation. The implementation of criminal law at the Kabanjahe Detention Center includes admitting inmates, executing prison sentences, and providing guidance and rehabilitation programs. However, limited facilities and human resources prevent rehabilitation from being optimal. This study emphasizes the need for a balance between repressive law enforcement and humane rehabilitation efforts to effectively achieve the goals of protecting the community and rescuing victims of drug abuse.

I. INTRODUCTION

Narcotics are substances or drugs derived from plants or non-plants, and can be synthetic or semi-synthetic. These substances have unique properties, such as being able to reduce or alter a person's level of consciousness, dull or even eliminate sensation, and suppress the sensation of pain experienced by the body.(AISYA 2023)However, beyond that, narcotics carry a significant potential for addiction. If these substances are used inappropriately, without regulations, and without strict supervision from authorities, the consequences can be extremely dangerous, not only to the user's physical health but also to their life.(Sitompul 2021)In the medical world, narcotics still play a vital role, for

example, in certain treatments or as part of scientific research. However, the reality on the ground shows that their use goes far beyond legitimate medical purposes, resulting in more damaging effects than therapeutic ones. This has made narcotics a serious problem in modern society.

A similar phenomenon is also seen in psychotropic drugs, namely substances or drugs, whether derived from nature or synthetic, which are not classified as narcotics but have psychoactive properties. Psychotropic drugs selectively affect the human central nervous system, thereby altering the mental activity and behavior of the user. The resulting effects often include feelings of calm, euphoria, or even

hallucinations, leading to dependence. In a medical context, these psychoactive substances are indeed useful, but when abuse occurs, the effects can be more harmful than the benefits provided. Therefore, both narcotics and psychotropic drugs have a dual potential: they can be beneficial when used correctly and according to regulations, but can be harmful when used carelessly.(Rinaldo, Eddy, and Sahari 2022)

When discussing narcotics, it's crucial to note that people often abuse these substances for neither medical purposes nor scientific research. In practice, narcotics are often used in excessive doses simply for the sake of a momentary high, euphoria, or intoxication. Addiction then emerges as a direct consequence of this behavior. This situation makes drug crime a highly lucrative business opportunity. Illicit drug trafficking is growing rapidly in various countries, including Indonesia, and has even evolved into a transnational business network.(Rahmah and Pabbu 2022)This business is developing with increasingly sophisticated patterns and involving many parties. As a result, the younger generation, who should be the nation's future, is threatened by drugs slowly destroying their physical health, diminishing their thinking power, destroying their morals, and destroying their future.

Ironically, drug abuse is no longer limited to certain groups, but has spread to all levels of society. Law enforcement officials, politicians, the private sector, students, and even children have been exposed and even ensnared in drug networks. This fact demonstrates that drugs know no social status or profession, but affect anyone who is careless or tempted to try them. Therefore, drug abuse is essentially a collective threat that undermines the very foundations of national and state life.

Efforts to eradicate narcotics crimes have actually involved nearly every nation worldwide. However, in reality, the rate of drug trafficking is actually increasing and becoming rampant. This empirical fact demonstrates that narcotics crimes are indeed extraordinary in nature. Many legal experts refer to them as extraordinary crimes, namely crimes with significant, widespread, and multidimensional impacts. These impacts are felt not only in social and cultural aspects but also impact the economy, undermine political life, and even threaten security stability. The negative impacts are so devastating that it is natural that narcotics crimes require extraordinary forms of punishment. Ordinary punishments are considered inadequate to address these

extraordinary crimes. Therefore, in a global context, narcotics have long been categorized as a transnational crime, requiring cross-border cooperation to eradicate them.(Yanti 2020)

In Indonesia, the increasingly widespread distribution of narcotics also demonstrates that law enforcement still faces significant challenges. The government, as the state administrator, has strived to provide protection and ensure public welfare through various policies formulated within the framework of national development. One form of this is social policy, which encompasses many aspects of community life. Within this social policy, there is law enforcement policy specifically aimed at creating a sense of security and combating crime. Part of this law enforcement policy is legislative policy, which relates to the creation of laws. All of this is interconnected with criminal policy, which is essentially the state's systematic effort to control and suppress crime rates, including drug crimes.(Yanti 2020)

One concrete manifestation of this policy is the enactment of Law Number 35 of 2009 concerning Narcotics. This law was designed to clearly regulate actions that can be categorized as narcotics crimes, while also establishing strict sanctions for perpetrators. This regulation is a product of the Indonesian government's legal policy to address narcotics crime in a more structured manner. With this law, it is hoped that the illicit trafficking and abuse of narcotics can be suppressed through criminal law instruments or penal means. This means that the state uses criminal law as the primary tool to protect society from the threat of narcotics.(Judge 2023)

However, in practice, the drug problem in Indonesia cannot be viewed simply. Numerous obstacles arise, ranging from weak oversight, the involvement of authorities, to the increasingly creative nature of illicit trafficking networks. Furthermore, the problem of drug addiction is not only related to legal aspects, but also health and social aspects. Therefore, law enforcement must go hand in hand with rehabilitation, education, and prevention efforts. This aligns with the principle stipulated in the law, which states that drug addicts and victims of drug abuse are fundamentally obliged to undergo rehabilitation, not merely criminal punishment.(Iskandar and IK 2019)

Drug crimes, with all their complexity, demand a comprehensive handling strategy. Law enforcement by authorities must be firm, consistent, and impartial. However, the success of

drug eradication depends not only on the authorities but also on public awareness. Without public participation in preventing and opposing drug abuse, no matter how well-developed the laws are, the results will be suboptimal. Therefore, strengthening education, social campaigns, and developing the mental health of the younger generation are crucial elements that must not be overlooked.

Based on this description, it is clear that the drug problem is not simply a criminal issue, but a national one. This is why research on the application of criminal penalties to drug offenders is relevant and important. By understanding how laws are applied and how the legal status of drug use is positioned within regulations, we can identify gaps, challenges, and solutions for improving the law enforcement system going forward.

The research questions formulated in this study stem from this background. First, how is the criminal penalty applied to drug offenders in the Kabanjahe Detention Center? This is important because correctional institutions are where judges' decisions are implemented, thus illustrating how written laws are actually enforced. Second, what is the legal status of drug use under Law Number 35 of 2009 concerning Narcotics? This question is relevant to understanding the extent to which the law views drug abusers as perpetrators of criminal acts or as victims in need of rehabilitation.

Thus, this research examines not only the norms in the law, but also how those norms are implemented, their consequences, and how society perceives their impact. All of this is expected to provide a comprehensive picture of the drug problem in Indonesia and encourage the development of more humane, just, and effective solutions.

II. RESEARCH METHODS

The research method used in this research is normative juridical, namely research which in its study refers to and is based on legal norms and rules, applicable laws and regulations, legal theories and doctrines, jurisprudence, and other library materials relevant to the research topic.(Tarigan et al. 2024)The collection of legal materials was carried out through literature studies, namely through a review of regulations governing restorative justice and various literature relevant to the research object.

III. RESULTS AND DISCUSSION

A. Legal Status Regarding the Use of Narcotics in Law Number 35 of 2009 Concerning Narcotics

The legal status of narcotics use under Law Number 35 of 2009 is essentially enshrined in a series of very firm and detailed criminal norms. These criminal provisions are compiled in Chapter XV, which contains Articles 111 to 148. The legal structure established in this law demonstrates that the state takes the distribution and abuse of narcotics seriously. This is understandable, as narcotics are not merely a health issue but have become a complex social and legal problem. Therefore, the law systematically categorizes various acts considered unlawful related to narcotics, and each category carries a different criminal penalty.(Munandar 2019)

Broadly speaking, there are four main categories established by law to limit and sanction anyone involved in drug abuse. The first category covers the act of possessing, storing, controlling, or providing narcotics or narcotic precursors. This regulation is outlined in Articles 111 and 112 for class I narcotics, Article 117 for class II narcotics, and Article 122 for class III narcotics, and is further strengthened in Article 129 letter a. This category emphasizes that simply possessing or storing narcotics without authorization is enough to ensnare a person with the threat of criminal penalties. The goal is clear: the state wants to prevent the earliest stages of drug circulation from developing into wider consumption or trade.(Nasution, Terariato, and Siregar 2022)

The second category regulates the production, import, export, or distribution of narcotics and their precursors. This provision is contained in Article 113 for class I, Article 118 for class II, and Article 123 for class III, and is further clarified by Article 129 letter b. In this context, it is clear that the law not only targets small-scale users or dealers but also targets large-scale production and distribution networks. By criminalizing production, import, and export, the law aims to close the gap for the entry of narcotics in large quantities, whether produced domestically or imported.(Iskandar 2019)

The third category relates to the acts of offering for sale, selling, buying, receiving, acting as an intermediary in the sale, exchange, or transfer of narcotics and narcotic precursors. Articles 114 and 116 regulate Class I, Articles 119

and 121 regulate Class II, while Articles 124 and 126 apply to Class III. Furthermore, Article 129 letter c also emphasizes this prohibition. This demonstrates that the law seeks to eradicate the narcotics trade chain at various levels. Regardless of whether someone acts as a wholesaler, intermediary, or even a buyer, all are considered criminal acts that can be subject to severe sanctions.

The fourth category covers the carrying, sending, transporting, or transiting of narcotics and their precursors. Article 115 regulates Class I narcotics, Article 120 Class II, and Article 125 Class III, with Article 129 letter d as a clarification. Acts in this category typically occur within the context of cross-regional distribution networks. Therefore, the law seeks to ensure that the movement of narcotics from one location to another is also subject to criminalization. (Arifin 2021)

In addition to categorizing acts, the law also establishes a variety of criminal sanctions designed not only to punish the primary perpetrators but also to reach other individuals or parties associated with drug crimes. For example, drug abusers or victims of drug abuse are required to undergo medical and social rehabilitation. This provision demonstrates a dual approach: on the one hand, it is harsh on business-oriented criminals, while on the other hand, it still provides room for rescue for drug abusers who are considered victims.

In addition, the law also implicates other parties, such as parents or guardians, who neglect minors who become drug addicts. Article 128 states that such parents or guardians can be punished with a maximum of six months' imprisonment or a fine of up to one million rupiah. This penalty may seem lenient, but it carries a strong moral message: that parental responsibility cannot be easily abdicated in cases of children caught up in drug addiction. (Subekti, Arfa, and Prayudi 2022)

Furthermore, the law also explicitly regulates criminal acts committed by corporations. Article 130 stipulates that corporations found guilty of narcotics crimes can be subject to imprisonment and a triple fine. Furthermore, such corporations can be subject to additional penalties, including revocation of their business licenses or revocation of their legal entity status. This is crucial because large-scale narcotics trafficking often involves business entities, both overtly and covertly.

Still within the framework of expanding legal responsibility, Article 131 criminalizes anyone

who fails to report a drug crime. Those who know about it but fail to report it can face a maximum prison sentence of one year or a fine of up to fifty million rupiah. Thus, the law seeks to foster a proactive community culture in eradicating narcotics.

Equally important, Article 132 regulates attempted and criminal conspiracy in narcotics crimes. Anyone who attempts or plans a narcotics crime can still be subject to the same prison sentence as the main article. The following paragraph even emphasizes that the prison sentence and fine can be increased by one-third. This emphasizes that the law punishes not only committed acts but also initial attempts or criminal plans that have not yet been realized.

The law is also very strict in cases of child abuse as part of a narcotics crime. Article 133 stipulates that anyone who orders, persuades, coerces, uses violence, uses deception, or involves a child in narcotics abuse can be sentenced to death, life imprisonment, or imprisonment of between five and twenty years and a fine of billions of rupiah. These sanctions are further detailed in the following paragraph, with a penalty of five to fifteen years and a fine of up to ten billion rupiah. This provision reflects the state's determination to provide maximum protection for children as the nation's future generation. (Fazizullah, Marlina, and Sahlepi 2022)

Furthermore, Article 134 emphasizes the obligation of drug addicts to report themselves. Failure to do so can result in a maximum of six months in prison or a fine of two million rupiah, or even three months or a fine of one million rupiah in certain cases. This provision conveys the message that rehabilitation is both a right and an obligation, and the state provides a way for addicts to break free from their addiction by reporting themselves.

Article 135 punishes pharmaceutical industry managers who fail to comply with regulatory obligations. They can face one to seven years in prison and a fine of between forty million and four hundred million rupiah. This serves as a reminder that the pharmaceutical industry bears significant responsibility for managing substances with the potential for abuse.

The law also addresses the laundering of drug proceeds. Article 137 stipulates severe penalties for anyone who controls or exploits the proceeds of drug crimes. The penalties range from five to fifteen years in prison and a fine of billions of rupiah. Article 138 further states that anyone who

obstructs or hinders the investigation, prosecution, and examination of narcotics cases can face up to seven years in prison and a fine of half a billion rupiah.

Interestingly, the law also extends to those who might be considered far removed from drug trafficking, such as ship captains or airline captains who fail to comply with certain provisions. Article 139 stipulates a prison sentence of one to ten years and a fine of up to one billion rupiah. Likewise, Article 140 stipulates sanctions for National Police investigators, National Narcotics Agency investigators, or Civil Servant Officials who fail to fulfill their obligations regarding evidence. Even the head of the district attorney's office is not immune from the threat of Article 141 if he neglects his duties.

Article 142 criminalizes laboratory personnel who falsify test results with a seven-year prison sentence and a fine of half a billion rupiah. Article 143 punishes witnesses who provide false testimony with a penalty of one to ten years in prison and a fine of up to six hundred million rupiah. Article 144 even stipulates that repeat offenders who commit narcotics crimes will be subject to an additional one-third of the maximum sentence. Article 147 also expands the scope to include hospital managers, scientific institutions, pharmaceutical industries, and pharmaceutical wholesalers who violate the provisions. They can be sentenced to one to ten years in prison and a fine of up to one billion rupiah.

When examined as a whole, Law Number 35 of 2009 presents a very comprehensive criminal sanction system. This law targets not only the direct perpetrators, but also all parties who directly or indirectly support or are negligent in drug abuse. In this way, the law seeks to close any loopholes that could be exploited to perpetuate drug crimes.

From this description, it is clear that the legal standing regarding drug use under this law is very strong and comprehensive. This regulation goes beyond prohibition, but also emphasizes that drug abuse is a serious crime with severe consequences. The state views the drug problem as a multidimensional threat that must be addressed with sharp and harsh criminal law instruments. However, on the other hand, there is also a humanitarian spirit, namely by providing rehabilitation space for abusers who are considered victims. By combining repressive and rehabilitative approaches, this law seeks to balance firm action against crime and efforts to

rescue people caught in the clutches of drugs.(Fithri 2020)

B. Implementation of Criminal Penalties for Narcotics Offenders at Kabanjahe Detention Center

The application of criminal penalties for drug offenders in Indonesia, particularly in the Kabanjahe Detention Center, is inextricably linked to the normative foundations stipulated in Law Number 35 of 2009 concerning Narcotics. The initial articles of the law stipulate that narcotics may only be used for two primary purposes: health services and the development of science and technology. This provision demonstrates that narcotics are legally permissible within narrow, limited, and strictly controlled boundaries. However, in social reality, these provisions are frequently violated. Many people abuse narcotics outside of medical or research contexts. Narcotics circulation is increasingly widespread, reaching various levels of society and developing into a multidimensional problem.(Wijaya and Ruslie 2024)

From a legal perspective, the use of narcotics for legitimate purposes is indeed legal, but the use of narcotics outside of legal limits is clearly prohibited. This is what gives rise to various problems in practice. The state, through law enforcement officials, strives to enforce these provisions by arresting perpetrators, prosecuting them in court, and ultimately issuing criminal sentences. The hope is that law enforcement can act as a controlling factor and deterrent to the growing illicit trade and abuse of narcotics. However, the reality on the ground does not always align with these expectations. Instead of decreasing, the rate of narcotics abuse has actually increased year after year. This phenomenon creates a paradox: the stricter law enforcement is, the more sophisticated the methods of drug distribution become. This situation illustrates that the war on narcotics is not just a matter of regulation or enforcement, but also involves broader social, economic, and even political issues.

Law Number 35 of 2009 has attempted to detail the status of drug abusers, but it still leaves serious issues. Article 54 of the law states that both drug addicts and victims of drug abuse are required to undergo medical and social rehabilitation. This provision opens up new interpretations. On the one hand, drug abusers can be considered perpetrators of criminal acts for using drugs without authorization. On the

other hand, some drug abusers can be categorized as victims, especially if their involvement occurred through persuasion, deception, fraud, coercion, or threats. In other words, this law places drug abusers in a dual position: some are viewed as perpetrators of criminal acts, but others must be positioned as victims of criminal acts. (Lawalata, Titahelu, and Latupeirissa 2022)

In this context, the application of the law often sparks debate. Article 54 clearly mandates rehabilitation for both addicts and victims of abuse, but Article 112 paragraph (1) emphasizes the very severe criminal penalties for those who possess or control Class I narcotics other than plants without the right. The criminal penalties are a minimum of four years' imprisonment and a maximum of twelve years' imprisonment, as well as a fine of between eight hundred million and eight billion rupiah. This duality creates tension between the legal text and its implementation in the field.

One concrete example is seen in Supreme Court Decision Number 3790 K/PID.SUS/2020 on January 13, 2021. In this case, defendant Prasetyo Febriono was sentenced to two years and six months in prison, even though the law stipulates a minimum sentence of four years. This decision demonstrates the difference between law on the books, namely the law as written in the law, and law in action, namely the law as applied by judges in real cases. This phenomenon shows that judges in certain situations can use discretionary authority or subjective judgment, for example considering humanitarian factors, the level of involvement of the defendant, or even their background as victims of abuse. (Suisno 2017)

Kabanjahe Detention Center, as a correctional institution, serves as a place where court decisions against drug offenders are carried out. The criminal justice process here encompasses the stages of admitting inmates, carrying out the sentence according to the verdict, and providing guidance aimed not only at punishing but also at guiding inmates to reintegrate into society with a better life. In drug cases, guidance is often accompanied by medical and social rehabilitation programs, in line with the mandate of Article 54. This emphasizes that the Indonesian correctional system is not only retributive but also rehabilitative.

However, rehabilitation at Kabanjahe Detention Center and other correctional facilities in Indonesia still faces numerous obstacles. Medical facilities and professional staff are often limited, while the number of drug inmates

continues to rise. This situation results in less than optimal rehabilitation. Furthermore, the social stigma surrounding drug abuse remains strong, so rehabilitation is often seen as disproportionate to the victims' suffering. In many cases, society advocates for harsh prison sentences rather than rehabilitation. Yet, from a public health perspective, rehabilitation is the most logical path to overcoming drug addiction.

Legal provisions also have dual consequences. Drug abusers who intentionally use drugs without authorization are clearly considered perpetrators of the crime, but those proven to have used drugs due to coercion or inducement should be positioned as victims. Unfortunately, in judicial practice, this distinction is not always smooth. Law enforcement officials often struggle to distinguish between genuine victims and active perpetrators. This situation leads to inconsistencies in court decisions and the application of criminal penalties in correctional institutions.

From a normative legal perspective, drug abusers who are considered victims should be directed to rehabilitation institutions. Conversely, those who clearly use drugs knowingly and without authorization must serve the punishment stipulated by law. However, in reality, this dividing line is often blurred. This forces correctional systems like the Kabanjahe Detention Center to fulfill both functions simultaneously: serving prison sentences for those convicted and providing rehabilitation programs for those deemed victims.

Another emerging issue is the fact that the more aggressive authorities are in cracking down on drug trafficking, the more sophisticated drug networks become. This means that law enforcement alone is insufficient. On the one hand, court decisions enforced at the Kabanjahe Detention Center have a deterrent effect, but on the other hand, they don't necessarily stop drug trafficking outside. In other words, correctional facilities merely serve as the final stage of the legal process, while the root causes of drug abuse continue to thrive within society. (MEDAN, nd)

However, the implementation of criminal penalties at the Kabanjahe Detention Center cannot be considered unimportant. This is precisely where the law is truly enforced. Drug inmates held there must comply with applicable regulations, whether in prison or rehabilitation. The guidance provided is also expected to reduce their tendency to return to drug use after release. Overall, the ultimate goal is social reintegration,

ensuring they are accepted back into society without repeating their actions.

From this, it can be concluded that the application of criminal penalties for drug offenders in the Kabanjahe Detention Center is complex. On the one hand, the law demands strict enforcement with the threat of severe penalties. On the other hand, there is a need for rehabilitation, which positions some drug users as victims. The tension between these two approaches persists to this day. Therefore, the ideal solution lies not solely in the application of criminal penalties, but also in improving the rehabilitation system, enhancing correctional facilities, and shifting the societal paradigm regarding drugs.

IV. CONCLUSIONS AND RECOMMENDATIONS

Criminal Penalties for Narcotics Crime Perpetrators According to Law No. 35 of 2009, which regulates the unlawful act of possessing class I narcotics that are not plants without the right is contained in Article 112 paragraph (1): "Any person who without the right or against the law possesses, stores, controls, or provides class I narcotics that are not plants, shall be punished with imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years and a fine of at least Rp. 800,000,000.00 (eight hundred million rupiah) and a maximum of Rp. 8,000,000,000.00 (eight billion rupiah). In this article there is a minimum criminal threat of 4 (four) years.

Legal Position Regarding the Use of Narcotics in Law Number 35 of 2009 concerning Narcotics, namely the criminal provisions contained in Law No. 35 of 2009 concerning Narcotics are formulated in Chapter XV Criminal Provisions Articles 111 to 148. Law No. 35 of 2009 concerning Narcotics, there are four categories of unlawful acts that are prohibited by law and can be threatened with criminal sanctions.

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