

The Interpretation of Article 127 of Law Number 35 of 2009 on Narcotics in Addressing Drug Abuse through Restorative Justice

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Abstract

Narcotics crime refers to a range of illegal activities involving the distribution, purchase, sale, possession, and abuse of drugs without proper authorisation. These activities cause harm to both the broader community and the individuals involved. Restorative Justice has emerged as a response. Its primary focus is to resolve cases involving drug abusers who are addicted to narcotics. In addition to Restorative Justice, there is an alternative for rehabilitating narcotics abusers through the involvement of police investigators, the prosecutor's office, or decisions made by judges. The purpose of this study is to analyse the relationship between the interpretation and execution of Article 127 of Law No. 35 on Narcotics and Restorative Justice, based on literal interpretation. Based on the analyses, the enforcement of Article 127 of Law No. 35 of 2009 on Narcotics, which focuses on Restorative Justice, has been supported by multiple regulations. However, the law's implementation has not aligned with expected standards and legislation, leading to ambiguity in Article 112 and Article 127. This ambiguity creates opportunities for unscrupulous law enforcement to make illicit gains, increasing the incidence of drug-related offenses. The author proposes an immediate revision of Law No. 35 of 2009 concerning Narcotics due to the ambiguity in the law's article parts and the current legal framework's inability to effectively curb opioid misuse.

I. Introduction

- II. Indonesia is a country of law, and as such, any crime or non-crime will be resolved through the appropriate legal mechanism in accordance with the laws that govern it. However, efforts to combat criminal acts, particularly narcotics, have not been successful thus far. As the author of the Kompas news, which was based on data from the Indonesia Drugs Report 2022, the BNN Data and Information Research Centre, reported, the prevalence of narcotics crimes has increased from year to year. In 2019, the prevalence was 1.80 percent. In 2021, it was approximately 1.95 percent, representing a 0.15 percent increase. In 2022-2023, approximately 4.8 million rural and urban residents between the ages of 15 and 64 have used narcotics. The National Narcotics Agency disclosed 768 instances of narcotics crimes, with 1,209 suspects. This figure has increased by approximately 4.5 million individuals from the previous year. According to Kompas news, the crime of Criminal Acts and Drug Abuse has consistently increased, despite the implementation of a variety of remedies, including those based on the Restorative Justice approach.
- III. In the field of health science, there are two distinct types of substances: narcotics and other dangerous addictive substances (Crocq, 2007; Nutt et al., 2007). In Indonesia, the circulation of narcotics is not prohibited for the sake of the medical community; however, the illicit circulation of narcotics is prohibited due to its detrimental impact on the future of the nation, the state, and humanity. The community is facing a growing number of drug users, and the issues are becoming more intricate as a result of the manipulation (Hasanah & Jiwantara, 2023).
- IV. Various segments of society can be impacted by drug crimes, which are transnational crimes, organised crimes, and serious crimes. The issue of substance abuse among teenagers and students is challenging to resolve due to the fact that it necessitates the collaboration of all parties involved, including the government, authorities, society, mass media, family, and the victims themselves. Drug abuse arises when victims are unaware of the nature of drugs, which allows them to be deceived by negligent parties (Orne, 1979). The Narcotics Law does not establish a clear distinction or boundary between criminal offences in Article 127 and other criminal offences. Drug users who acquire narcotics unlawfully must satisfy the elements of "controlling," "possessing," "storing," and/or "buying" narcotics, which are also regulated as separate criminal acts in the Narcotics Law. In practice, law enforcement officers also connect (including / include / juncto) the criminal offence of drug users with the criminal offence of possession, ownership, storage, or purchase of narcotics without rights and against the law. The criminal threat is significantly higher and the special minimum sanction is a minimum of four years in prison and a

fine of at least Rp. 800,000,000, - (eight hundred thousand rupiah) (Febriana et al., 2019; Sofyan et al., 2021).

- V. Various perspectives frequently emerge from these elements, depending on the perspective of law enforcers from which side they assess it. This results in legal ambiguity in its enforcement, particularly if the handling is associated with the Restorative Justice approach. Certain law enforcers tend to exploit legal loopholes for personal interests outside the norms or applicable legal rules (Parisman & Gorda, 2022). Indonesia's criminal law enforcement initiatives typically employ criminalisation as a method of resolving criminal cases. Criminalisation is implemented because the state intentionally inflicts agony upon an individual who intentionally violates the provisions of the law, specifically criminal law, in order to induce feelings of misery. In the same vein, criminalisation refers to the imposition of criminal penalties or punishment. It is only natural that an individual who has violated the criminal provisions of the law will be sentenced to criminal penalties in a country where the pattern of community life is regulated by law (Alifuddin & Talib, 2024; Setiawan & Fakrulloh, 2022)
- VI. As time progresses, society is becoming more and more dynamic. Current regulations must be revised to ensure they are in sync and aligned with the prevailing dynamics. Similarly, when it comes to the approach to punishment, the current system should prioritise a more compassionate treatment or counsel for offenders or wrongdoers. The primary objective of criminal law is no longer primarily focused on seeking revenge for the actions committed. Instead, it aims to provide punishment that is proportionate to the mistakes made by offenders or perpetrators, while also emphasising restorative justice and rehabilitation (Sasongko et al., 2023)
- VII. Restorative Justice, a legal resolution method, is now being adopted and applied by law enforcement agencies in Indonesia. Restorative justice, as described by Kevin I. Minor and J.T. Morrison in their book "A Theoretical Study and Critique of Restorative Justice," is a method of addressing the actions of criminals by seeking to restore the harm caused and promote reconciliation between all involved parties. Restorative Justice, a principle of law enforcement, is a concept used to resolve cases and aid in recovery. The Supreme Court has implemented this concept as a policy, but its execution in the Indonesian criminal justice system has not been fully optimised. Restorative justice, as a substitute for settling criminal matters within the framework of criminal justice proceedings, centres on transforming punishment into a process of discourse and mediation that includes the offender, victim, their respective families, and other relevant parties (Gunarto & Bawono, 2023). The objective is to collaboratively establish a fair and equitable agreement for resolving criminal matters, with a focus on restoring the affected parties to their original status and fostering positive

societal relationships. Furthermore, Restorative Justice might be employed for juveniles or females entangled in legal matters, minors who have suffered or witnessed criminal crimes, as well as anyone struggling with addiction or substance misuse. Restorative Justice adheres to a fundamental notion of restoring victims who have been affected by crimes through the provision of compensation, peace, or other mutually agreed upon resolutions. Restorative justice seeks to achieve judicial resolution by facilitating an agreement over the resolution of criminal cases. Given the previously mentioned background information, the purpose of this study is to analyze the relationship between the interpretation and execution of Article 127 of Law No. 35 on Narcotics and Restorative Justice, based on literal interpretation.

2. Research Method

The author employed the normative legal research technique approach for this study, which involves conducting research on library data or secondary data using legal principles and comparative law. The approach based on legal principles involves the examination of legal norms that serve as standards for appropriate conduct (Adiyanta, 2019; Ali, 2021). The study is conducted by analysing the norms and principles found in secondary data, and the main issues are discussed using the statutory approach pattern. The proposed technique involves analysing statutes, regulations, and supplementary provisions pertaining to the mitigation of Narcotics Abuse Crimes. This method relies on main legal sources and secondary legal sources as references. Primary legal materials refer to legally binding documents, including laws, rules, and other associated supporting regulations. The secondary legal materials mentioned refer to authoritative textbooks authored by influential legal scholars, legal journals, online news sources, internet resources, and papers that serve as research guides for the application of Article 127 of Law Number 35 Concerning Narcotics in the context of restorative justice in addressing criminal offences related to drug abuse.

3. Results and Discussion

Prior to further discussing the implementation of Article 127 of Law Number 35 of 2009 regarding Narcotics in relation to Restorative Justice in resolving Narcotics Abuse Crimes, it is important to address the legal loopholes that have arisen due to the ambiguous interpretation of the law. Specifically, Article 127 of Law Number 35 of 2009 concerning narcotics has been subject to misinterpretation by irresponsible law enforcers when applying the Restorative Justice approach. This has led to instances of abuse of authority, where certain law enforcers determine legal steps based on their own interests, which is problematic in reality. Drug crimes are highly exceptional offences that necessitate a rigorous approach to address them. In this context, the author will initially define a crime as an action that causes harm to society, resulting in a negative response. Crime is a manifestation inside society and is influenced by historical and economic factors, which in turn impact human relationships (Yesmil Anwar: 2010,57). Sutherland highlighted that

crime is primarily defined as behaviour that is forbidden by the state due to its destructive impact on society. In response to such acts, the state employs punishment as a final measure.

Drug crimes, as commonly understood, are offences orchestrated by well-organised syndicates with intricate networks, operating with precision and utmost confidentiality, spanning over national and international boundaries. Drug victims are indiscriminate, implying that individuals at all levels can become targets. The crime under consideration in this instance is the offence of Drug Abuse, primarily targeting individuals who are users or addicts and are subject to the provisions outlined in Law Number 35 of 2009 pertaining to Narcotics (Kurniawan & Rukmono, 2022; Yusuf, 2021).

Individuals who use drugs are referred to by different terms, including drug addicts, abusers, victims of abusers, patients, and former drug addicts. The aforementioned context raises legal implications, particularly in relation to the provisions of Article 4 letter d. This article ensures the regulation of Medical and Social Rehabilitation Efforts for Drug Abusers and Addicts, in conjunction with Article 54 and Article 127 of Law Number 35 of 2009 concerning Narcotics, which determine whether drug users should be classified as victims or perpetrators (Chandra et al., 2023; Gunawan & Rustamaji, n.d.; Shalasa et al., 2023).

Abusers who were first promised rehabilitation are now subject to criminal threats in accordance with Article 127 of Law Number 35 of 2009 concerning Narcotics, due to the principle of legality followed in Indonesia. Law Number 35 of 2009 regulates many sorts of Narcotics Crimes. The author will provide a brief description of each article:

- 1) According to Article 111, it is illegal for any individual to possess, cultivate, own, store, control, or distribute Class I Narcotics in the form of plants, without proper authorisation or in violation of the law.
- 2) According to Article 112, it is illegal for any anyone to possess, cultivate, own, store, control, or distribute Class I Narcotics that are not in the form of plants, without proper authorisation or in violation of the law.
- 3) According to Article 113, it is illegal for any individual to produce, import, export, or distribute Class I Narcotics without proper authorisation or in violation of the law.
- 4) According to Article 114, it is illegal for any anyone to engage in the sale, purchase, receipt, intermediation, exchange, or delivery of Class I Narcotics without proper authorisation or in violation of the law.
- 5) Article 115 states that it is illegal for any individual to possess, distribute, transport, or transfer Class I Narcotics without proper authorisation or in violation of the law.
- 6) According to Article 116, it is illegal for any individual to use Class I Narcotics on another person or to supply Class I Narcotics for someone else's use, without proper authorisation or in violation of the law.
- 7) Article 117 states that it is illegal for any individual to possess, store, control, or distribute Class II Narcotics without proper authorisation or in violation of the law.

- 8) Article 118 states that anyone who unlawfully develops, imports, exports, or distributes narcotics classified as Class II, without proper authorisation, would be held accountable.
- 9) According to Article 119, it is illegal for any individual to offer for sale, sell, buy, receive, act as an intermediary in the sale and purchase, exchange, or deliver Class II Narcotics without proper authorisation or in violation of the law.
- 10) Article 120, Any person who without rights or against the law carries, sends, transports, or transits Class II Narcotics
- 11) Article 121, Any person who without rights or against the law uses Class II Narcotics against another person or provides Class II Narcotics for use by another person.
- 12) Article 122, Any person who without rights or against the law plants, maintains, owns, stores, controls or provides Class III Narcotics.
- 13) Article 123, Any person who without rights or against the law produces, imports, exports, or distributes Class III Narcotics.
- 14) Article 124, Any person who without rights or against the law offers for sale, sells, buys, receives, acts as an intermediary in buying and selling, exchanges, or delivers Class III Narcotics.
- 15) Article 125, Any person who without rights or against the law carries, sends, transports, or transits Class III Narcotics.
- 16) Article 126, Any person who without rights or against the law uses Class III Narcotics against another person or provides Class III Narcotics for use by another person.
- 17) Article 127, Any Abuser of Class I, II, and III Narcotics for themselves.
- 18) Article 128, Parents or guardians of addicts who are not yet of age, as referred to in Article 55 paragraph (1) who intentionally do not report.
- 19) Article 129, Any person without rights and against the law owns, stores, controls, or provides Narcotics Precursors for Narcotics acts; Produces, imports, exports, or distributes Narcotics Precursors for the manufacture of Narcotics; Offers for sale, sells, buys, receives, acts as an intermediary in the sale and purchase, exchanges, or delivers Narcotics Precursors for the manufacture of Narcotics; Brings, sends, transports, or transits Narcotics Precursors for the manufacture of Narcotics.
- 20) Article 130, In addition to criminal fines, business licenses and/or legal entity status can also be revoked
- 21) Article 131, Any person who intentionally does not report a crime as referred to in the Articles above
- 22) Article 132, Attempt or conspiracy to commit a crime involving Narcotics and Narcotics Precursors.
- 23) Article 133, Any person who orders, gives or promises something, provides an opportunity, encourages, provides convenience, forces with threats, forces with

violence, commits trickery, or persuades a minor to commit a crime involving Narcotics; To use Narcotics.

- 24) Article 134, Narcotics addicts who are old enough and intentionally do not report themselves; Families of Narcotics addicts who intentionally do not report the Narcotics addict.

Aside from the articles outlined in Law Number 35 of 2009 regarding Narcotics, there are additional regulations related to Narcotics Crimes. These regulations were compiled by the Directorate of Narcotics Crimes of the National Police Criminal Investigation Unit in Jakarta in 2015. They serve as important references in dealing with Narcotics Abusers. those regulations are:

- 1) Government Regulation of the Republic of Indonesia Number 44 of 2010, issued on April 5, 2010, which specifically addresses Precursors.
- 2) Circular 04/Bua.6/Hs/Sp/IV/2010, issued by the Supreme Court on April 7, 2010, addresses the placement of individuals who have committed abuse, victims of abuse, and narcotics addicts into medical rehabilitation and social rehabilitation institutions.
- 3) The Republic of Indonesia's Government Regulation Number 25 of 2011, issued on 18 April 2011, pertains to the enforcement of compulsory reporting for individuals addicted to narcotics.
- 4) Circular Letter from the Chief Justice of the Republic of Indonesia, numbered 04/Bua.6/Hs/Sp/VII/2011 and dated 29 July 2011, regarding the allocation of individuals affected by narcotics abuse to medical rehabilitation and social rehabilitation facilities.
- 5) The Republic of Indonesia's Government Regulation Number 40 of 2013, issued on 23 May 2013, pertains to the execution of Law Number 35 of 2009 on Narcotics.
- 6) A telegram letter has been issued by the Head of the Criminal Investigation Unit of the Indonesian National Police, numbered ST/329/Dittipidnarkoba/IX/2013 and dated 24 September 2013.
- 7) The letter addresses the implementation of rehabilitation for individuals who are narcotics addicts, emphasising that this decision should be based on the perpetrator's addiction rather than the quantity of narcotics evidence confiscated.
- 8) The text refers to a joint regulation issued on March 11, 2014, which involves the Chief Justice, Minister of Law and Human Rights, Minister of Health, Minister of Social Affairs, Attorney General, Chief of Police, and Head of BNN.
- 9) The regulation specifically addresses the procedures for handling narcotics addicts in rehabilitation institutions. The Minister of Health of the Republic of Indonesia issued Regulation Number 13 of 2014 on March 20, 2014, which pertains to the modification of the classification of narcotics.

- 10) A telegram letter, numbered ST/118/Dittipidnarkoba/IV/2014, was sent by the Chief of Criminal Investigation of the Indonesian National Police on April 4, 2014. The letter discusses the placement of narcotics addicts in rehabilitation centres, which is done following a Judge's Decision that has been made on the matter.
- 11) Chief of BNN Number 11 of 2014, issued on June 17, 2014. It outlines the procedures for dealing with suspects and/or defendants who are narcotics addicts, as well as victims of narcotics abuse, in rehabilitation institutions.
- 12) Regulation HK.02.02/MENKES/402/2014, issued by the Minister of Health of the Republic of Indonesia on 17 October 2014, determines the institutions that are required to submit reports.
- 13) The Chief of Police issued a Telegram Letter (Number: STR/701/VII/2014) on 22 August 2014. The letter provides guidelines for placing narcotics addicts in rehabilitation centres to support the pilot project for the designation of 16 rehabilitation places by the National Narcotics Agency.

In addition to the regulations established by the Directorate of Narcotics Action of the Criminal Investigation Unit of the Indonesian National Police, there are other regulations known as the Regulation of the Head of the Indonesian National Narcotics Agency Number 5 of 2021. This regulation provides technical instructions for the National Action Plan for the Prevention and Eradication of Abusers and Illicit Trafficking of Narcotics Precursors for the period of 2020-2024. The purpose of these technical instructions is to establish a common understanding among individuals responsible for implementing the plan, as well as Ministries, Institutions, Regional Governments, and the community. The aim of compiling this plan is to interpret Presidential Instruction Number 2 of 2020, which outlines the objectives of the 2020-2024 National Action Plan for the Prevention and Eradication of Abusers and Illicit Trafficking of Narcotics Precursors (Badu & Kaluku, 2022; Mediansyah, 2022).

The execution of Presidential Instruction Number 2 of 2020, which pertains to the 2020-2024 National Action Plan for the Prevention and Eradication of Corruption, is being carried out in accordance with the responsibilities and roles of each government ministry, institution, and regional government. 2. This serves as a directive for Ministries/Institutions/Regions and the community to carry out Presidential Instruction Number 2 of 2020, which pertains to the implementation of the 2020-2024 National Action Plan for Combating Drugs and Illicit Trafficking. The legal references used in the preparation of the Technical Instructions for the 2020-2024 National Action Plan for Combating Drugs and Illicit Trafficking are as follows: 1. Law Number 35 of 2009 regarding Narcotics; 2. Presidential Regulation Number 47 of 2019 regarding Amendments to Presidential Regulation Number 23 of 2010 regarding the National Narcotics Agency; 3. National Narcotics Agency Regulation Number 5 of 2020 regarding the Organisation and Work Procedures of the National Narcotics Agency; 4.

National Narcotics Agency Regulation Number 6 of 2020 regarding the Organisation and Work Procedures of the Provincial National Narcotics Agency and the Regency/City National Narcotics Agency; and 5. Presidential Instruction Number 2 of 2020 regarding the 2020-2024 National Action Plan for Combating Drugs and Illicit Trafficking (Nurhaliza et al., 2024).

Furthermore, in relation to the management of drug misuse, two approaches are employed, notably non-punitive prevention through obligatory reporting of those addicted to drugs, and the enforcement of rehabilitation laws with a restorative justice perspective. Restorative Justice is a criminal case resolution concept in which all parties engaged in the case come together to achieve a fair conclusion by focussing on restoring the original state rather than seeking revenge. Restorative justice is implemented by the pursuit of alternate forms of punishment, with a reduced emphasis on incarceration. According to Article 54 of Law Number 35 of 2009, those who are addicted to drugs or have been affected by drug misuse must go through both medical and social rehabilitation (Hasibuan, 2024).

Drug abuse cases involve the use of narcotics with a restricted amount of narcotics possession intended for one day's use. The determination of the grammage is specified in SEMA number 4 of 2010. Investigators and prosecutors have a duty to carry out scientific investigations and prosecutions, regardless of whether the perpetrator is categorised as both an addict and a dealer. The potential for implementing Restorative Justice in Narcotics Crimes can be enhanced through the implementation of comprehensive regulations. One such regulation is the Regulation of the Chief of Police Number 8 of 2021, which specifically addresses the handling of Criminal Acts Based on Restorative Justice. Article 9 of this regulation outlines the special requirements for drug crimes, including: a) the involvement of drug addicts and victims of drug abuse who seek rehabilitation, and b) cases where individuals are caught in the act. 1. Evidence of narcotics usage for a single day was discovered, classified as narcotics and psychotropics in accordance with the laws and regulations. 2. No evidence of narcotics-related crimes was found, however, the urine test results indicated a positive presence of narcotics. c) The individual was not involved in any narcotics crime network, nor were they a dealer or distributor. d) An evaluation has been conducted by a comprehensive assessment team. e) The offender is willing to cooperate with further investigations. Furthermore, there is Prosecutor's Regulation Number 15 of 2020 which pertains to the cessation of prosecution through the use of Restorative Justice. According to Article 5, paragraph (1), criminal proceedings may be concluded or prosecution may be terminated through the use of Restorative Justice, provided that the following conditions are fulfilled: 1. The suspect is a first-time offender; 2. The crime is punishable either by a fine or by a maximum prison sentence of 5 years; and 3. The crime involves evidence or loss valued at no more than IDR 2,500,000.

In addition, the Prosecutor's Implementation Guidelines Number 18 of 2021 address the resolution of Narcotics Abuse Crime cases through Rehabilitation with a

Restorative Justice approach. This is done in accordance with the Dominus Litis Principle, which prioritises Restorative Justice and benefits. The guidelines also consider the principles of expeditious, uncomplicated, and cost-effective justice, the principle of criminal law as a last resort (*ultimum remedium*), cost and benefit analysis, and the rehabilitation of the offender. The Dominus Litis Principle can be understood etymologically. The term "Dominus litis" originates from Latin, where "Dominus" signifies owner and "Litis" refers to a legal dispute. From the etymological and terminological perspectives, it is evident that Dominus litis refers to the individual who possesses the case and holds the authority to influence its progression. This person is deeply invested in the case and plays an active role in its management. In the criminal justice system, dominus litis refers to a party who has a vested interest in a matter being prosecuted, investigated, and adjudicated in a court of law. Genuine interest refers to the active representation of participants' interests (Andi, 2014). The Indonesian society is today confronted with a highly alarming scenario caused by the escalating illicit use of diverse drugs and psychotropics. This issue is intensified by the extensive criminal trafficking of opioids and psychotropics that has permeated all segments of society, especially the younger generation. This will have a profound impact on the future of the nation and state, as the younger generation will be the inheritors of the principles of the nation and state.

The current emphasis is on the alarming state of Drug Abuse, which has escalated to a critical level, posing an urgent concern at both national and international levels. Indonesia has transformed from being solely a transportation area to now also serving as a marketing hub. According to Article 1 of Law Number 35 of 2009 concerning Narcotics, Drug Abusers are individuals who use Narcotics without legal authorisation or in violation of the law. This leads to a state of dependence on Narcotics, known as Drug Addiction. The same Article defines Drug dependence as a condition where there is a continuous urge to use Narcotics with increasing doses in order to achieve the same effect. Abrupt reduction or cessation of Narcotics usage results in distinct physical and psychological symptoms. Drug addicts are individuals who use or abuse Narcotics and are in a state of both physical and psychological dependence on them. Law enforcement officers employ various strategies to combat the rising number of individuals suffering from narcotics addiction and to address narcotics abuse crimes. In addition to following government regulations and guidelines for rehabilitation, they also utilise a restorative justice approach.

The Attorney General's Office has emphasised that the implementation of Restorative Justice for Drug Users, as outlined in the Attorney General's Guidelines Number 18 of 2021, is being strictly enforced. This enforcement is based on careful consideration of various factors, including the amount of evidence, the qualifications of the suspect, the nature of the criminal act and the charges, the element of guilt (*mensrea*) in the suspect, and a comprehensive assessment of the suspect through integrated evaluation results. Furthermore, the Public Prosecutor has a specific

responsibility to give directives to the Investigator, specifically to verify that the Suspect is the ultimate user (end user) and to gather information about the Suspect's profile, which includes their lifestyle, financial transactions, as well as their associates and surroundings (know your suspect). Ketut emphasised the Attorney General ST Burhanuddin's directive that prosecutors must not manipulate cases involving the implementation of Restorative Justice, since it is a program aimed at humanising the justice system. In order to support the implementation of the Attorney General's Guidelines Number 18 of 2021, the Attorney General is urging Regional Governments and Law Enforcers to work together to establish Rehabilitation houses in every Province and Regency/City. This is based on the perspective of viewing the perpetrators as victims of Drug Abuse who require intensive treatment. This endeavour represents a highly earnest endeavour towards human-centered law enforcement.

The restorative justice method, in contrast to the philosophy of punishment, is the appropriate answer for settling criminal situations in the present day. Particularly in instances of substance misuse. The criminal measures outlined in Law Number 35 of 2009 on Narcotics, which primarily focus on punishment, are deemed inadequate in effectively addressing the issue. Furthermore, the act of imposing punishment and the act of implementing punishment cannot be equated. Retributive punishment is ineffective in altering the mindset of an abuser to deter them from engaging in drug usage again. Individuals who take drugs require comprehensive therapy that addresses both their medical and social needs.

Comprehensive rehabilitation requires the involvement of various parties, such as an integrated assessment team, to oversee and monitor the success of the rehabilitation process. In order to achieve justice, it is necessary to undertake legal reform or a legal revolution to address the issue of punishment only driven by revenge. This reform should ensure the principles of legal certainty and benefit are upheld. Can the problem of drug misuse be effectively addressed by the implementation of Restorative Justice and other relevant regulations? Currently, the system created by humans for humans, particularly in the case of Law Enforcement Officers, is not yet optimal. This is due to the presence of many mentalities and behaviours among Law Enforcement Officers that are not aligned with their responsibility towards personal interests or certain groups that operate outside the boundaries of the law. Furthermore, this situation is exacerbated by the existence of numerous regulations that serve as guidelines for addressing the issue of Narcotics Abuse. Consequently, this leads to significant legal confusion and variations in interpretation or perception, which are influenced by the interests and authority of Law Enforcement Officers.

It is important to acknowledge that the mentality and morals of Law Enforcement Officers are often influenced by values or money, which can act as a destructive force on their moral compass. This is particularly evident when dealing with the problem of Narcotics. From a legal standpoint, Law Number 35 of 2009 regarding Narcotics,

specifically Article 127 in conjunction with Article 54, states that individuals who are addicted to narcotics or have been victimised by narcotics abuse are obligated to undergo both medical and social rehabilitation. The term "mandatory" in this context signifies that it is a requirement. Additionally, Article 127 emphasises the necessity of rehabilitation for individuals proven to be narcotics abusers, although it is not an independent provision. Article 127 of the three verses encompasses two aspects of resolution. The first involves subjecting the offender to the appropriate legal process, which may include a trial. The second aspect pertains to rehabilitation if the individual is proven to be a victim of drug abuse. This is where a legal loophole arises, as different interpretations can arise based on the amount of evidence available. Consequently, individuals suspected of violating Article 127 can be viewed as either criminals or victims of drug abuse. It is not uncommon for individuals purely addicted to drugs to be arrested for drug-related offences, even if the evidence exceeds one gramme. In such cases, Article 112 of Law No. 35 of 2009 concerning narcotics will be applied, in accordance with the Circular of the Supreme Court No. 4 of 2010. This circular specifies that the maximum consumption or possession of methamphetamine in one day should not exceed one gramme, while for marijuana, the limit is set at five grammes in the case of being caught in the act. If Article 112 is linked to this matter, it may cause confusion as both Articles involve the concept of possession. Naturally, individuals who wish to utilise it must possess the item in question. This element further complicates the application of the Articles within the Narcotics Law, where the foundation for rehabilitating drug abusers should be rooted in Article 127 of Law No. 35 of 2009 on Narcotics. Additionally, multiple Articles are consistently applied when dealing with narcotics-related offences.

If the suspect is charged with Article 127, there must be another article that is also applied in the case file, so it seems as if there are several choices of articles that are faced with the suspect due to the confusion of the elements in the article itself, thus creating legal loopholes as an alternative solution in resolving narcotics crimes, so in enforcing the law against this crime, there are several solutions according to the needs where the dealer or dealer can be an abuser and vice versa, the abuser can be a dealer or dealer due to the application of articles that exceed one article in narcotics crimes, and if it is associated with the Telegram Letter from the Head of the Criminal Investigation Unit of the Indonesian National Police Number: ST/329/Dittipidnarkoba/IX/2013, dated September 24, 2013 concerning the Implementation of Rehabilitation, it is based on the consideration that the perpetrator is a narcotics addict and not based on the size of the narcotics evidence confiscated, if seen from this explanation, it emphasizes that rehabilitation is not based on the confiscated evidence, so every abuser should be rehabilitated. Similarly, the implementation of Restorative Justice can be used to address narcotics offences committed by addicts. Through the Restorative mechanism, these individuals can undergo medical or social rehabilitation without having to wait for a court ruling. The

implementation of Restorative Justice to Abusers is based on Law Number 35 of 2009 concerning Narcotics and other relevant regulations. Restorative justice was originally introduced as a framework for addressing narcotics offences, particularly those involving individuals struggling with drug addiction. Law No. 35 of 2009 on Narcotics guarantees the decriminalisation of individuals who use, abuse, or are addicted to narcotics. Instead of traditional punishment, alternative measures are implemented with a restorative justice approach. This approach aligns with the recommendations of the United Nations General Assembly Special Session (UNGASS) 2016, also known as the 2016 United Nations Special Assembly session. During this session, global issues were discussed, and member countries were encouraged to address the narcotics problem by promoting health services and implementing rehabilitation, reintegration, and recovery support programs.

4. Conclusion

Based on the previous explanation, which covers the problem formulation and the discussion of existing theories, it can be inferred that the enforcement of Article 127 of Law No. 35 of 2009 on Narcotics, which pertains to Restorative Justice in addressing drug abuse crimes, has received backing from multiple regulations. These regulations aim to prevent the criminalisation of drug abusers and instead focus on their placement in rehabilitation centres. Nevertheless, its execution has not aligned with the anticipated standards and legislation that govern it. The multitude of current laws leads to difficulty in the interpretation of the law, particularly due to the ambiguity present in Article 112 and Article 127 of Law No. 35 of 2009. Article 112 is specifically applicable to anyone involved in the sale or distribution of drugs, whilst Article 127 is intended for individuals who have been affected by drug misuse. These standards serve as the foundation for rehabilitation, which is carried out by investigators and prosecutors following Restorative Justice guidelines.

According to the author's analysis, the multitude of legislation governing the management of drug misuse actually exacerbates the confusion around its treatment due to the divergent legal perspectives of different stakeholders. The wide range of available articles used to catch individuals involved in drug usage creates opportunity for unscrupulous law enforcement agents to make illicit gains. This effectively augments the incidence of drug-related offences. These restrictions have the potential to create a commercial opportunity for unscrupulous law enforcement personnel. Therefore, it is crucial that law enforcement involves individuals who possess strong moral values and integrity, especially considering the severity of drug crimes. The author proposes an immediate revision of Law Number 35 of 2009 concerning Narcotics due to the effects of different rules on drug crime resolution and the ambiguity in the law's article parts. Revision is necessary due to the current legal framework's inability to effectively curb the dissemination or misuse of opioids.

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