Jurnal Legalitas
Volume 17 Issue 1, 2024
P-ISSN: 1979-5955, E-ISSN: 2746-6094
Faculty of Law, Universitas Negeri Gorontalo

Implications of Narcotics Crime Regulation in the National Criminal Code Against Narcotics Abusers

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Article Info

Article History
Received: Dec 14, 2023;
Reviewed: Apr 22, 2024;
Accepted: May 3, 2024.

Keywords:

Narcotics addicts; Narcotics abusers; Narcotics abuse; Narcotics Crime; Rehabilitation

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How to cite *[Chicago Manual of Style 17th edition (full note)]:*
Silvana Diani et al., "Implications of Narcotics Crime Regulation in the National Criminal Code Against Narcotics Abusers," *Jurnal Legalitas* 17, no. 2 (2024): 49-65.

DOI :
10.33756/jelta.v17i1.23490

Abstract

This article aims to determine and analyze the application of the law to drug abusers and addicts based on Law Number 5 of 2009 on Narcotics and Law Number 1 of 2023 on the Criminal Code. Furthermore, to know, analyze, and construct drug crime arrangements that ensure legal protection for drug abusers and addicts. This article is normative research with a statutory approach, a case approach, a historical approach, and a conceptual approach. The results show that first, the application of the law against drug abusers and addicts has many problems, especially in the implementation of the law on narcotics. This problem has implications for regulatory bias in some articles, such as in Articles 4 and 54, which cause differences in subjects who are obliged to undergo medical rehabilitation and social rehabilitation. Furthermore, there is a tendency to use Article 111 or Article 112 charged with Article 127 (if an alternative charge) or without Article 127 (if a single charge) against drug abusers and drug users. This trend illustrates that the approach used is criminal, even if it is towards drug users, not drug dealers. Furthermore, the regulation of drug crimes in the New Criminal Code basically does not eliminate these problems because the provisions maintained through the New Criminal Code are only copies of repealed articles and no longer apply to the law on narcotics. Second, criminal regulation that ensures legal protection for drug abusers and addicts can be realized by revising the law on narcotics, which focuses on subject consistency in Article 54, Article 55, and Article 103, changing the elements of Article 127 paragraph (3) and abolishing the Explanation to Article 54.

1. Introduction

One of the regulations regarding human rights that is present through the Second Amendment to the Constitution of the Republic of Indonesia 1945 (1945

Constitution) is the right to health as stated in Article 28H paragraph (1). The provision reads, "*Every person shall have the right to live in physical and spiritual prosperity, to have a home and to enjoy a good and healthy environment, and shall have the right to obtain medical care.*". The existence of the right to health in the Second Amendment to the 1945 Constitution was then derived from several laws and regulations, one of which was Law of the Republic of Indonesia Number 35 of 2009 on Narcotics (Law No. 35 of 2009). Through Article 4, the Narcotics Law has four objectives, including "*ensure the regulation of medical and social rehabilitation for Narcotics Abusers and addicts*".

The purpose of the Narcotics Law is an elaboration of the consideration letter b of Law No. 35 of 2009, which emphasizes that to improve the health status of Indonesian human resources in order to realize the welfare of the people, efforts need to be made to improve the field of treatment and health services, among others, by seeking the availability of certain types of narcotics that are needed as drugs and preventing and eradicating the dangers of abuse and circulation Dark Narcotics and Narcotic Precursors.

The objectives and considerations of Law No. 35 of 2009 above mean that the state should be able to manage narcotics for the sake of health, welfare and also the development of science in society and the nation.[1] In addition, all provisions in Law No. 35 of 2009 should make these considerations the spirit in the body of the next provision. Unfortunately, many of the regulations in the body of the Narcotics Law do not seem to be in line with the purpose and purpose of Law No. 35 of 2009 as stated in the Preamble. The body of Law No. 35 of 2009 regulates more about punishment with minimum sanctions, the death penalty for possession as the harshest punishment, possession and use of narcotic and psychotropic substances. Regulations regarding narcotics control, both utilization for public health and the development of science are only slightly regulated in Law No. 35 of 2009.[2]

The establishment of the Narcotics Law basically wants to realize the government's legal politics in tackling the abuse and illicit circulation of narcotics as stated in Law of the Republic of Indonesia Number 8 of 1976 on the Ratification of the 1961 Single Convention on Narcotics and the Protocol that Amends it (Law on the Ratification of the Narcotics Conventions). The political points of state law in tackling the abuse and illicit circulation of narcotics include:[3]

1) All acts related to the possession of narcotics, ranging from planting, offering for sale and purchase, and import-export contrary to applicable regulations, carried out intentionally, can be punished with loss of freedom.
2) If the violation of these provisions is committed by a drug abuser, a substitute or alternative to punishment or additional punishment is provided that the abuser must undergo treatment, education, after-care, rehabilitation and social reintegration.

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[1] Eunike Sri Tyas Suci, Asmin Fransiska, and Lamtiur Hasianna Tampubolon, *Long and Winding Road: Jalan Panjang Pemulihan Pecandu Narkoba* (Jakarta: Penerbit Buku Kompas, 2015).

[2] Bernardinus Putra Benartin and Asmin Fransiska, "Pelarangan Penggunaan Narkotika Golongan I Bagi Layanan Kesehatan Dilihat Dari Perlindungan Hak Atas Kesehatan Di Indonesia," *Jurnal Paradigma Hukum Pembangunan* 5, no. 02 (February 6, 2021): 236–52, https://doi.org/10.25170/paradigma.v5i02.2120.

[3] Anang Iskandar, *Politik Hukum Narkotika* (Jakarta: PT Elex Media Komputindo, 2020), 11–12.

3) Pay special attention to drug abusers by taking preventive, early identification, treatment, education, after-care, rehabilitation and social reintegration measures.
4) Promote personnel training in the areas of care, after-care, rehabilitation and social reintegration for drug abusers.

In addition to consideration letter b of Law No. 35 of 2009, it is interesting to see consideration letter a of Law No. 35 of 2009, which affirms that in order to realize a prosperous, just and prosperous Indonesian society that is equitable materially and spiritually based on Pancasila and the Constitution of the Republic of Indonesia Year 1945, the quality of Indonesian human resources as one of the national development capital needs to be maintained and improved continuously, including the degree of health.

Based on the description of the consideration letter of Law No. 35 of 2009 above, it is clear that the content of the Pancasila Law Paradigm bases its view on the Indonesian people as one of the national development capitals that need to be maintained and improved continuously, including the degree of health.[4] This shows a paradigm shift in punishment from the absolute school to the neo-classical school. The penal paradigm is also strengthened through point 4 of consideration letter b of Law No. 35 of 2009, which is derived from the provisions of Article 54 of Law No. 35 of 2009, which reads, "*Narcotics addicts and victims of Narcotics abuse shall undergo the medical rehabilitation and social rehabilitation.*" Even so, the regulation in the adjudication stage, Article 103 paragraph (1) of Law No. 35 of 2009,[5] confirms as follows:

The judge who examined the case of Narcotics Addicts can:
a. decided to instruct the relevant treatment and/or care through rehabilitation if proved guilty of Narcotics Addicts Narcotics crime; or
b. set to the respective ordered to undergo treatment and/or care through the rehabilitation if the addict is not proven guilty Narcotics crime.

Both provisions are then supplemented by Article 127 paragraph (3) of Law No. 35 of 2009, which confirms that "*In the event that abusers as referred to in paragraph (1) can be proved or proven as victims of abuse of narcotics, such abusers shall undergo rehabilitation medical and social rehabilitation.*".[6] Thus, the Narcotics Law accommodates the concept of restorative justice in its penal paradigm,[7] which prioritizes justice for victims, of course, based on the position of "abuser" referred to in Article 127 as victims. In addition, through such arrangements, legal protection

[4] Ramlani Lina Sinaulan, "Politik Hukum UU No 35 Tahun 2009 Tentang Nakotika Dalam Kaitannya Dengan Pergeseran Paradigma Pemidanaan Bagi Penguna/Pecandu Dan Korban Narkotika," *JRP (Jurnal Review Politik)* 6, no. 1 (June 26, 2016): 42–67, https://doi.org/10.15642/jrp.2016.6.1.42-67.
[5] "*… ensure the regulation of medical and social rehabilitation for Narcotics Abusers and addicts*."
[6] "*Any abusers: a. Narcotics Group I for himself shall be subjected to imprisonment for maximum 4 (four) years; b. Narcotics Group II for themselves shall be subjected to imprisonment for maximum 2 (two) years; and c. Narcotics Group III for themselves shall be subjected to imprisonment for maximum 1 (one) year*." See Article 127 paragraph (1), Republic of Indonesia, "Law Number 35 of 2009 on Narcotics" (2009).
[7] Sinaulan, "Politik Hukum UU No 35 Tahun 2009 Tentang Nakotika Dalam Kaitannya Dengan Pergeseran Paradigma Pemidanaan Bagi Penguna/Pecandu Dan Korban Narkotika."

for Abusers and Addicts is to be realized through the fulfilment of their rights based on principles related to the right to health.

Although through the provisions of the article above, it can be seen that the Narcotics Law has undergone a paradigm shift in penalties, if you look at several other provisions regulated in Law No. 35 of 2009, there are still regulatory loopholes that are contradictory to the regulations in the provisions of Articles 54, 127 paragraphs (3) and 103 of Law No. 35 of 2009. For example, Article 1 number 15 of Law No. 35 of 2009 reads, "*Abuser shall mean people who use narcotics without authority or illegal*". The consequence of the "without authority" and "illegal" elements is that drug users are still seen as unlawful people or perpetrators of crimes. Of course, the definition of the abuser is very contrary to the definition of narcotics addicts regulated in Article 1 number 13 of the Narcotics Law as it reads, "Narcotic Addicts shall mean people using or abusing the Narcotics and in a state of dependence on Narcotics, physically and psychologically". The definition of narcotics addicts refers to the view that the person concerned has the right to get treatment socially and medically, so in many arrangements, the Narcotics Law puts this forward, or in other words, Article 1 number 13 of the Narcotics Law has a different paradigm from Article 1 number 15 of the Narcotics Law against the same object, namely drug abusers. Article 1, number 13 of Law No. 35 of 2009, is a very important article for the existence of Articles 54, 103, and 127 paragraph (3) of Law No. 35 of 2009.[8]

The contradiction of the regulation in Law No. 35 of 2009 above is the beginning of the complexity of the application of Law No. 35 of 2009. Because all the elements contained in the definition of "abuser", and "narcotics addict" must first be proven through the judicial process. Thus, to obtain medical rehabilitation and/or social rehabilitation facilities as referred to in Articles 54, 103 and 127 paragraph (3) of Law No. 35 of 2009, a person must first undergo a criminal examination process before the court. The results of the examination, as outlined in the criminal judge's decision, can be directed to medical rehabilitation and/or social rehabilitation can be in the form of a verdict stating "proven guilty" or "not proven guilty". Therefore, a person who uses narcotics for himself must still undergo examination starting from the pre-adjudication stage to the adjudication stage.[9]

The contradictions in the definitions of "abuser", and "narcotics addict" become more complex with the similarity of elements between Article 111 of the Law, Article 112, and Article 127 of Law 35 of 2009. These provisions in law enforcement practice make the Investigators and Investigators of the Indonesian National Police (Polri) or the National Narcotics Agency (BNN) have enormous power, which, of course, can be very subjective to determine the direction of the investigation process so that the use of discretion to determine the article to be used depends heavily on the knowledge of Legal Science from the Investigators and Investigators of the National Police or BNN, even the Public Prosecutor who will later receive the Minutes of Examination (BAP) and make the BAP as material for the Public

[8] Supriyadi Widodo Edyyono et al., *Kertas Kerja: Memperkuat Revisi Undang-Undang Narkotika Indonesia Usulan Masyarakat Sipil*, ed. Maidina Rahmawati (Jakarta: Institute for Criminal Justice Reform, 2017), 9.

[9] Sinaulan, "Politik Hukum UU No 35 Tahun 2009 Tentang Nakotika Dalam Kaitannya Dengan Pergeseran Paradigma Pemidanaan Bagi Penguna/Pecandu Dan Korban Narkotika," 59.

Prosecutor to compile a letter of demand. The enormous power caused by contradictions in these definitions will greatly affect the enforcement of the Narcotics Law and will tend to shake steps to realize legal certainty.

Against the polemic over the application of the provisions of the above articles, the Supreme Court finally issued Supreme Court Circular Number 3 of 2015 on the Implementation of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber in 2015 as a Guideline for the Implementation of Duties for the Court (SEMA Number 3 of 2015). This provision is basically a refinement of the Supreme Court Circular Number 4 of 2010 on the Placement of Abuse, Victims of Abuse and Narcotics Addicts into Medical Rehabilitation and Social Rehabilitation Institutions (SEMA Number 4 of 2010).

It should be underlined that all SEMA mentioned above is a form of discretion issued by the Supreme Court of the Republic of Indonesia (MA) in the context of governance related to the judicial process in the Supreme Court, including the judicial institutions below,[10] especially related to the application of Articles 111, 112 and 127 of Law No. 35 of 2009. The problem is, since the Criminal Code Bill was passed and promulgated on January 1, 2023, to become Law Number 1 of 2023 on the Criminal Code (National Criminal Code), the provisions of Articles 111 and 112 have been declared revoked and no longer valid. This is affirmed in Article 622 paragraph (1) letter w of the National Criminal Code. Furthermore, in paragraph (15) of the article, provisions are stipulated, which states that the provisions of Article 112 paragraph (1) of the Narcotics Law are replaced by Article 609 paragraph (1) letter a of the National Criminal Code, and Article 112 paragraph (2) of reference is replaced by Article 609 paragraph (2) letter a.

The above situation will certainly cause a problem in the application of the law to an act that can meet the elements in Article 609 paragraph (1) letter a and paragraph (2) letter an of the National Criminal Code when later the National Criminal Code will be enforced.[11] The reason is that the SEMA mentioned above only regulates the resolution of the problem of applying Articles 111, 112 and 127 of Law No. 35 of 2009. Meanwhile, Article 111 and Article 112 were declared revoked and no longer valid by the National Criminal Code. Moreover, if you pay attention, between Article 112 paragraph (1) of Law No. 35 of 2009 and Article 609 paragraph (1) letter a of the National Criminal Code, and Article 112 paragraph (2) of Law No. 35 of 2009 and Article 609 paragraph (2) letter a of the National Criminal Code, there is no fundamental difference in substance. This means that the problems encountered in the application of Article 112 of Law No. 35 of 2009 before the

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[10] "*Government Officials have the right to use Authority in making decisions and/or Actions*." See Article 6 paragraph (1), Republic of Indonesia, "Law Number 30 of 2014 on Government Administration" (2014). Based on this, it can be said that SEMA is issued by an authorized government official, namely the Chief Justice of the Supreme Court. SEMA is a form of discretion in making State Administrative Decisions aimed at overcoming a problem. See Meirina Fajarwati, "Validitas Surat Edaran Mahkamah Agung (SEMA) Nomor 7 Tahun 2014 Tentang Pengajuan Peninjauan Kembali dalam Perkara Pidana Ditinjau dari Perspektif Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan," *Jurnal Legislasi Indonesia* 14, no. 2 (May 3, 2018): 145–62, https://doi.org/10.54629/jli.v14i2.97.

[11] "*Implementing regulations of this Law shall be established by no later than 2 (two) years from the promulgation of this Law*.", See Article 621, Republic of Indonesia, "Law Number 1 of 2023 Concerning the Criminal Code" (2023).

promulgation of the National Criminal Code will still occur even though these provisions have been regulated in the National Criminal Code. Meanwhile, SEMA, which has been a reference for solving these problems, can no longer be used.

The problems that arise due to the invalidity of SEMA above to the provisions in the National Criminal Code also show that presenting SEMA as a solution to the problems arising in the application of Articles 111 and 112 of Law No. 35 of 2009 is not an ideal option. It can be said that the improvement of the regulation or substance in Article 111 and Article 112 of Law No. 35 of 2009 is an ideal solution to overcoming these problems. But once again, the momentum of the National Criminal Code does not seem to be able to be utilized properly by the framers of the law considering the narcotics-related regulations in the National Criminal Code, which seem to be just copied and paste as can be seen in Article 609 paragraph (1) letter a and paragraph (2) letter a of the National Criminal Code.

On the above issues, this paper will focus on examining the implications of narcotics regulation in the National Criminal Code. The meaning of the implications in the title of this study has a meaning as a legal consequence of regulating narcotics crimes, especially after the National Criminal Code takes over the regulation.

2. Method

This article is prepared using normative legal research methods,[12] with a statutory approach,[13] a case approach,[14] and a conceptual approach.[15] The sources of research materials use primary and secondary legal materials.[16] The sources of research materials are collected by means of literature studies. For the sources of

[12] Normative legal research or doctrinaire legal research is also known as literature research or document study. Referred to as doctrinaire legal research because this research is conducted or aimed only at written regulations or other legal materials. At the same time, it is said to be literature research or document study because this research is mostly carried out on secondary data in the library. See Suratman and Philips Dillah, *Metode Penelitian Hukum: Dilengkapi Tata Cara & Contoh Penulisan Karya Ilmiah Bidang Hukum* (Bandung: Alfabeta, 2013), 51.

[13] The statutory approach is carried out by reviewing all laws and regulations related to the legal issues being addressed. In the legal approach method, researchers need to understand the hierarchy and principles of laws and regulations. See Peter Mahmud Marzuki, *Penelitian Hukum*, Cet. 13, Edisi Revisi (Jakarta: Kencana Prenada Media Grup, 2017), 137.

[14] The case approach is carried out by reviewing cases related to the legal issues faced. The cases reviewed are cases that have obtained court decisions with permanent legal force. This approach aims to find the value of truth and the best way out of legal events that occur in accordance with the principles of justice. See Irwansyah, *Penelitian Hukum: Pilihan Metode & Praktik Penulisan Artikel*, ed. Ahsan Yunus, Cet. 4, Edisi Revisi (Yogyakarta: Mirra Buana Media, 2021), 138.

[15] The conceptual approach departs from the views and doctrines that developed in the science of law. By studying the views and doctrines in legal science, researchers will find ideas that give birth to legal understandings, legal concepts, and principles relevant to the issue at hand. Understanding these views and doctrines is a basis for researchers in building a legal argument to solve the issue at hand. See Marzuki, *Penelitian Hukum*, 136.

[16] Primary legal materials consist of legislation, official records or minutes in making legislation and judges' decisions. Secondary legal materials are all publications about the law that are not official documents. Publications on law include textbooks, legal dictionaries, legal journals, and commentaries on court decisions. See Ibid., 181.

these research materials, an analysis of legal materials was carried out with interpretation and construction steps.[17]

3. Analysis or Discussion

3.1. Problems of Narcotics Crime Regulation in Law Number 35 of 2009 on Narcotics

Article 1 number 14 of Law No. 22 of 1997 (Law No. 22 of 1997) on Narcotics reads, "*Abusers are people who use narcotics without the approval and supervision of a doctor*". The definition of this abuser changed in Article 1 number 15 of Law No. 35 of 2009, which affirms that "*Abuser shall mean people who use narcotics without authority or illegal.*". This change is a crucial turning point in tackling drug abuse in Indonesia. Through these changes, it is very visible that the approach used in Law No. 35 of 2009 shifted from the health approach used in Law No. 22 of 1997 to the penal approach (punitive approach).

To be able to see the implications of changing the definition of "abuser", the definition of "abuser" in Law No. 35 of 2009 needs to be seated with other definitions that are very important in the operation of articles that are often suspected of "people who use narcotics", namely "narcotics addict", "narcotics abuse victim" and "narcotics addict who are not against the law/illegal".

The definition of "narcotics addict" can be found in Article 1, number 14, which reads "*Narcotics Addiction shall mean a condition characterized by the urge to use Narcotics continuously with increasing doses to produce effects same and if its use is reduced and/or stopped suddenly, causing physical symptoms and psychological characteristics.*". Furthermore, the definition of "narcotics abuse victim" can be found in the Explanation of Article 54 which reads "The term "Narcotics abuse victim" shall mean someone who is not intentionally use of Narcotics as persuaded, tricked, deceived, coerced and/or threatened to use of Narcotics.".

Finally, the definition of "Narcotics addicts who are not against the law/illegal" can be constructed if you look at the provisions in Chapter IX of Law No. 35 of 2009. In Part One on Treatment, precisely Article 53, it can be concluded that the limited use of Class II and III Narcotics can be carried out with limited and certain preparations. Such use means being able to possess, store, and/or carry Narcotics for himself, provided that there must be valid evidence that the Narcotics possessed, stored, and/or carried for use by patients are obtained legally in accordance with the provisions of laws and regulations. As for the Second Part on Rehabilitation, Article 54 affirms that "*Narcotics addicts and victims of Narcotics abuse shall undergo the medical rehabilitation and social rehabilitation.*".

Furthermore, Articles 55 to 59 basically stipulate obligations (Parents or guardians of narcotics addicts who are not old enough; Narcotics addicts who are of legal age or their families) to report to community health centres, hospitals, and/or

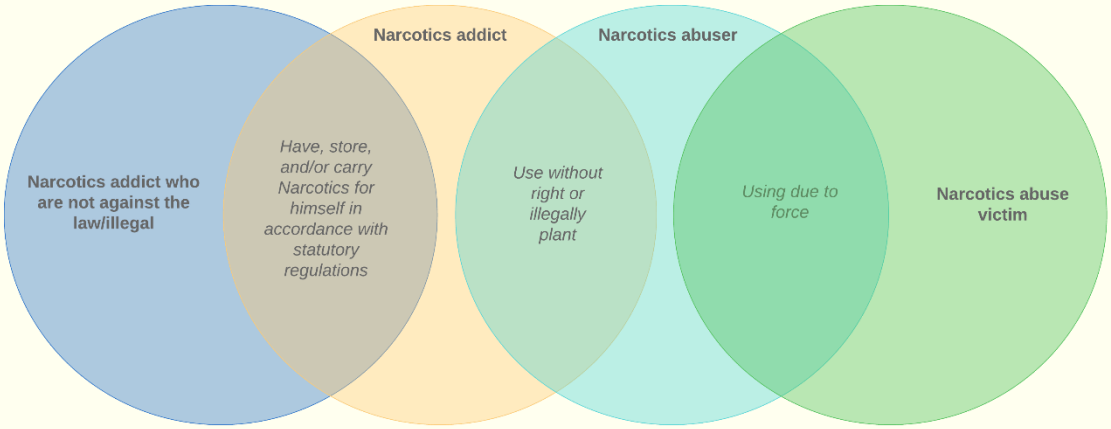
[17] Interpretation is one of the means of legal discovery (*rechtsvinding*) which aims to interpret legal material, whether, against the legal material, especially primary legal material, there is a legal vacuum, antinomy and vague legal norms. The legal construction is intended to answer a legal issue by conducting a process of analogy, *argumentum a contrario*, narrowing the meaning of the law (*rechtsverfining*). See Suratman and Dillah, *Metode Penelitian Hukum: Dilengkapi Tata Cara & Contoh Penulisan Karya Ilmiah Bidang Hukum*, 86–87.

medical rehabilitation and social rehabilitation institutions designated by the Government for treatment and/or treatment through medical rehabilitation and social rehabilitation.

Based on the provisions in Chapter IX of Law No. 35 of 2009, it can be concluded that the definition of a "narcotics addict who are not against the law/illegal" is "a person who meets the requirements based on the articles in Chapter IX of Law Number 35 of 2009 on Narcotics, with the priority of being obliged to report".

Based on some of the definitions above, basically, the definitions of "narcotics addicts", "narcotics abuse victim", and "narcotics addict who are not against the law/illegal" do not have firm boundaries because the three have a relationship, as can be seen in the picture below.

Figure 1. Linkage of Important Definitions in Law Number 35 of 2009 on Narcotics



As shown above, "narcotics addicts" can also be said to be "abuser" if they use narcotics without rights and against the law/illegal. The opposite of this situation, or addicts who possess, store, and/or carry narcotics for themselves in accordance with laws and regulations, are "narcotics addict who are not against the law/illegal". As for "abuser", because of coercion are "narcotics abuse victim".

The indecisiveness of the boundaries in the above definitions affects the operation of several articles. It shows that the state of the arrangement is followed by the bias of several provisions in Law No. 35 of 2009. For example, Article 4, which contains the objectives of Law No. 35 of 2009, which reads:

Law on Narcotics shall be intended to:

a. *ensure the availability of Narcotics in the interest of health service and/or science and technology development;*
b. *prevent, protect, and save the Indonesian people from Narcotics abuse;*
c. *eradicate the illicit traffic in Narcotic and Narcotics Precursor; and*
d. *ensure the regulation of medical and social rehabilitation for Narcotics Abusers and addicts.*

Point d of Article 4 confirms that medical and social rehabilitation efforts are regulated to be given to "abuser" and "narcotics addicts", in no way mentioning "narcotics abuse victim". However, Article 54 affirms that "Narcotics addicts and victims of Narcotics abuse shall undergo the medical rehabilitation and social

rehabilitation.". If we return to the above definition, between "abuser" and "narcotics abuse victim" are two different things. Against this difference, of course, in its implementation, the article that will be used to refer drug users to be rehabilitated medically or socially is Article 54 because the article is technical. This situation illustrates the hesitancy to use health approaches in tackling drug abuse in Indonesia.

The criminal approach in Law No. 35 of 2009 is increasingly visible in Article 111 and Article 112, especially when compared to Article 127. The construction of Article 111 or Article 112 with Article 127 uses different terms even though they have almost the same meaning, as can be seen in the table below.

Table 1. Comparison of Elements of Article 111, Article 112 and Article 127 of Law Number 35 of 2009 on Narcotics

Article 111	**Article 127**
(1) Any person who without right or illegally plant, maintain, posses, store, control, or provide Narcotics Group I in form of vegetation shall be subjected to imprisonment minimum 4 (four) years and maximum 12 (twelve) years and penalty of minimum Rp. 800,000,000.00 (eight hundred million rupiah) and maximum Rp. 8,000,000,000.00 (eight billion dollars). *(2) In the case of the planting, maintaining, possessing, keeping, possessing or providing Narcotics Group I in form of vegetation as referred to in paragraph (1) has weight of more than 1 (one) kilogram or more than 5 (five) trees, the perpetrator shall be subjected to imprisonment for life or imprisonment for minimum 5 (five) years and maximum 20 (twenty) years and penalty maximum as referred to in paragraph (1) plus 1/3 (one third).*	*(1) Any abusers:* *a. Narcotics Group I for himself shall be subjected to imprisonment for maximum 4 (four) years;* *b. Narcotics Group II for themselves shall be subjected to imprisonment for maximum 2 (two) years; and* *c. Narcotics Group III for themselves shall be subjected to imprisonment for maximum 1 (one) year.* *(2) In deciding the case as referred to in paragraph (1), the judge must consider provisions as referred to in Article 54, Article 55 and Article 103.* *(3) In the event that abusers as referred to in paragraph (1) can be proved or proven as victims of abuse of narcotics, such abusers shall undergo rehabilitation medical and social rehabilitation.*
Article 112	
(1) Any person who without right or illegally possess, keep, possess or provide Narcotics Group I not a vegetation shall be subjected to imprisonment of minimum 4 (four) years and maximum 12 (twelve) years and penalty of minimum Rp.800,000,000.00 (eight hundred million rupiahs) and maximum Rp.8.000.000.000,00 (eight billion dollars). *(2) In the case of deeds own, keep, possess or provide Narcotics Group I not a vegetation as referred to in paragraph (1) weight exceeding 5 (five) grams, the perpetrator shall be subjected to imprisonment for life or imprisonment for minimum 5 (five) years and maximum 20 (twenty) years and penalty maximum as referred to in paragraph (1) plus 1/3 (one third).*	

Based on the table above, Article 111 and Article 112 do not expressly mention "*Any abusers ...*" (as in Article 127) but use the phrase "*Any person who without right or illegally plant ...*". The reason is, of course, because Article 111 and Article 112 are aimed at the form of control over narcotics. At the same time, the definition of the abuser is a person who 'uses' narcotics without rights or against the law. The problem arising from the construction of the three articles is that both drug users who are limited to providing and drug users for themselves still have to master the

narcotics in question. This situation resulted in the freedom of law enforcement to use Article 111 and Article 112 against drug users. This can be proven based on the results of the following studies:

1) Research conducted by ICJR, RC and EJA in 2016 in PN Surabaya showed that of all the articles of indictment used in the research sample, either in the first/primary/single indictment or the second/subsidiary indictment, the use of Article 111 or Article 112 ranks first with a percentage of 48%. The second place is occupied by Article 127 with a percentage of 33%, while Article 114 is third with a percentage of 18%. At first glance, the use of Article 111 and Article 112 is not too large compared to Article 127, because it is only 15% different. However, in practice and technicality of the trial, when it comes to the model indictment, it can be seen that even if the public prosecution charges with Article 127, the public prosecution also still includes Article 111 or Article 112 or Article 114, which are elementally easier to prove. This situation is very visible from the majority of the use of Article 111 or Article 112 listed as the primary/first charge with a percentage of 63%, followed by Article 114 with a percentage of 37%, and 0% or nil for the use of Article 127.[18]
2) Research conducted by Indah Sari, Niru Anita Sinaga, and Selamat Lumbun Gaol on 10 randomly drawn verdicts from 748 East Jakarta District Court cases. Of the 10 verdicts, none of the verdicts provided rehabilitation for the accused drug abusers themselves, but the entire verdict was in the form of imprisonment of the defendant.[19]

The tendency of law enforcement to use Article 111 or Article 112 on drug users illustrates that punitive or criminal approaches are a priority in tackling crime in Indonesia. The absence of Article 127 to serve as a primary charge against drug users is the most obvious illustration of the situation.

Moreover, suppose you look at the sanctions stipulated in Article 111, Article 112 and Article 127. In that case, it tends to cause problems when applied casuistically, especially related to the binding of judges in deciding not to go outside the minimum and maximum limits of criminal threats outlined in the Indictment. This situation cannot be separated from the use of the old criminal sanctions formulation system (*strafmaat*) in Law No. 35 of 2009, which adheres to two types of *strafmaat*, namely fixed/indefinite sentence system or maximum system and determinate sentence system.

Fixed/indefinite sentence system or maximum system, commonly referred to as "absolute/traditional system or approach", means that for each crime, its own "weight/quality" is determined by setting the maximum criminal threat (it can also be the minimum threat) for each crime. This maximum system can be seen from the

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[18] Supriyadi Widodo Eddyono, Erasmus Napitupulu, and Anggara, *Meninjau Rehabilitasi Pengguna Narkotika Dalam Praktik Peradilan: Implementasi SEMA Dan SEJA Terkait Penempatan Pengguna Narkotika Dalam Lembaga Rehabilitasi Di Surabaya*, ed. Ajeng Gandini Kamilah and Luthfi Widagdo Eddyono (Jakarta: Institute for Criminal Justice Reform, 2016), 44.

[19] Indah Sari, Niru Anita Sinaga, and Selamat Lumban Gaol, "Implikasi Penerapan Pasal-Pasal Karet Dalam Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika Terhadap Penyalahguna Narkotika untuk Dirinya Sendiri dalam Memperoleh Hak Rehabilitasi di Pengadilan Negeri Jakarta Timur," *Jurnal Ilmiah Hukum Dirgantara* 11, no. 1 (March 7, 2021): 134–35, https://doi.org/10.35968/jh.v11i1.655.

maximum length of imprisonment/confinement and fines, with the formulation of the words "longest/most".[20]

The fixed/indefinite sentence system or maximum system has positive and negative sides. According to Collin Howard, the positive aspect is that it can show the seriousness of each criminal act, provide flexibility and discretion to the criminal power and protect the interests of the offender himself by setting limits on the freedom of the criminal power. The three positive aspects of the maximum system contain aspects of community and individual protection. The establishment sees the aspect of community protection of objective measures in the form of the maximum criminal as a symbol of the quality of the central norms of society contained in the formulation of the offence concerned. The aspect of individual protection is seen by giving freedom to judges to choose the length of the crime within the minimum and maximum limits that have been set. At the same time, the negative side of this maximum system is that it will have quite difficult consequences in setting specific maximums for each crime. No wonder in all criminalization processes, lawmakers are always faced with the problem of "giving weight" by setting the qualification of its maximum criminal threat. Setting a criminal maximum to show the seriousness of a crime is not an easy and simple job. For this reason, sufficient knowledge is needed about the sequence of levels or gradations of values of the central norms of society and the legal interests to be protected. Determining the gradation of values and legal interests to be protected is definitely not an easy job.[21]

Furthermore, the determinate sentence system is a system for formulating the length of criminal sanctions in the form of determining the minimum and maximum limits for the duration of criminal threats. Basically, the determinate sentence system, in terms of theoretical and practical, also has weaknesses. Law No. 35 of 2009 as a formulation policy views what is formulated in the law in general, while judicial practice applies the law casuistically. From such an aspect, the limitation of the minimum criminal limit specifically theoretically limits the freedom of judges to impose crimes in order to provide casuistic justice. For this reason, from the aspect of the applicative determinate sentence system policy, judicial practice responds with 2 (two) different opinions. First, the judge may not impose a crime below the minimum limit of criminal threat determined by law with arguments based on the principle of legality, does not provide legal certainty and is not justified in deviating from the provisions contained and the law. Then the second opinion, the Judge may impose a sentence less than the minimum limit of criminal threat prescribed by law based on the principle of justice and the balance between the degree of guilt and the sentence imposed.[22]

The second opinion above is the reason the Supreme Court issued SEMA Number 3 of 2015, which affirmed that in examining and deciding cases, the Judge must be based on the Public Prosecutor's Indictment. If the Public Prosecutor (JPU) charges with Article 111 or Article 112 of the Narcotics Law but based on the legal facts revealed at the trial that is proven to be Article 127 of the Narcotics Law where

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[20] Lilik Mulyadi, "Pemidanaan Terhadap Pengedar Dan Pengguna Narkoba: Penelitian Asas, Teori, Norma Dan Praktik Peradilan," *Jurnal Hukum Dan Peradilan* 1, no. 2 (July 31, 2012): 327, https://doi.org/10.25216/jhp.1.2.2012.311-337.
[21] *Ibid*., 327–28.
[22] *Ibid*., 328.

this article is not charged, then the defendant is proven to be a user and the amount is small (as stipulated in SEMA Number 4 of 2010), then the Judge decides in accordance with the indictment but can deviate from the special minimum criminal provisions by making sufficient consideration. SEMA Number 3 of 2015 is basically a refinement of SEMA Number 4 of 2010. SEMA Number 3 of 2015 was then re-strengthened by SEMA Number 1 of 2017.

3.2. Regulation of Narcotics Crimes in Law Number 1 of 2023 on the Criminal Code and Its Implications

As explained in the Introduction, since the Criminal Code Bill was passed and promulgated on January 1, 2023, to become Law Number 1 of 2023 on the National Criminal Code (National Criminal Code), the provisions of Articles 111 and 112 have been declared revoked. They will no longer apply when the National Criminal Code comes into effect in 2026. This is affirmed in Article 622 paragraph (1) letter w of the National Criminal Code, which reads:

> *At the time this Law comes into force, provisions under: Article 111 to Article 126 of Law Number 35 of 2009 on Narcotics (State Gazette of the Republic of Indonesia of 2009 Number 143, Supplement to the State Gazette of the Republic of Indonesia of 2009 Number 5062) as amended by Law Number 11 of 2020 on Job Creation (State Gazette of the Republic of Indonesia of 2020 Number 245, Supplement to the State Gazette of the Republic of Indonesia Number 6573); are repealed and declared invalid.*

Furthermore, Article 622 paragraph (15) stipulates provisions stating that if there is an Article in Law Number 35 of 2009 on Narcotics which refers to the provisions of Articles 111 to Article 126, then the reference is replaced with an article that has been regulated in the National Criminal Code, as confirmed in Article 622 paragraph (15) below:

> *In the event that the provisions of articles regarding narcotic Crimes as referred to in paragraph (1) letter w are referred to by the provisions of the articles under the relevant Law, the reference shall be replaced with the articles of this Law under the following provisions:*
> *a. reference of Article 112 paragraph (1) shall be replaced with Article 609 paragraph (1) letter a;*
> *b. reference of Article 112 paragraph (2) shall be replaced with Article 609 paragraph (2) letter a;*
> *c. reference of Article 113 paragraph (1) shall be replaced with Article 610 paragraph (1) letter a;*
> *d. reference of Article 113 paragraph (2) shall be replaced with Article 610 paragraph (2) letter a;*
> *e. reference of Article 117 paragraph (1) shall be replaced with Article 609 paragraph (1) letter b;*
> *f. reference of Article 117 paragraph (2) shall be replaced with Article 609 paragraph (2) letter b;*

g. reference of Article 118 paragraph (1) shall be replaced with Article 610 paragraph (1) letter b;
h. reference of Article 118 paragraph (2) shall be replaced with Article 610 paragraph (2) letter b;
i. reference of Article 122 paragraph (1) shall be replaced with Article 609 paragraph (1) letter c;
j. reference of Article 122 paragraph (2) shall be replaced with Article 609 paragraph (2) letter c;
k. reference of Article 123 paragraph (1) shall be replaced with Article 610 paragraph (1) letter c;
l. reference of Article 123 paragraph (2) shall be replaced with Article 610 paragraph (2) letter c;

In addition, in the National Criminal Code, the existence of several articles between Articles 111 to Article 126 is revoked and declared invalid when the National Criminal Code is in force, namely Article 111, Articles 114-116, Articles 119-121, and Articles 124-126. To find out the substance of each article that substitutes references in Articles 111 to Article 126 of Law No. 35 of 2009, can be seen in the table below.

Table 2. Comparison of Regulations regarding Narcotics Crimes in Law Number 35 of 2009 on Narcotics and Law Number 1 of 2023 on the Criminal Code

Article 112 paragraph (1)	**Article 609 paragraph (1) letter a**
Any person who without right or illegally possess, keep, possess or provide Narcotics Group I not a vegetation shall be subjected to imprisonment of minimum 4 (four) years and maximum 12 (twelve) years and penalty of minimum Rp.800,000,000.00 (eight hundred million rupiahs) and maximum Rp.8.000.000.000,00 (eight billion dollars).	Any Person who illegally owns, keeps, controls, or provides: non-plant Category I Narcotics shall be sentenced with imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years and a minimum criminal fine of category IV and a maximum of category VI;
Article 112 paragraph (2)	**Article 609 paragraph (2) letter a**
In the case of deeds own, keep, possess or provide Narcotics Group I not a vegetation as referred to in paragraph (1) weight exceeding 5 (five) grams, the perpetrator shall be subjected to imprisonment for life or imprisonment for minimum 5 (five) years and maximum 20 (twenty) years and penalty maximum as referred to in paragraph (1) plus 1 / 3 (one third).	In the event that the acts as referred to in paragraph (1) are conducted on: non-plant Category I Narcotics weighing more than 5 (five) grams shall be sentenced with life imprisonment or imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years and a minimum criminal fine of category V and a maximum of category VI;
Article 113 paragraph (1)	**Article 610 paragraph (1) letter a**
Any person who without right or illegally producing, importing, exporting, or channel the Narcotics Group I, shall be subjected to imprisonment for five (5) years and maximum 15 (fifteen) years and penalty of minimum Rp. 1,000,000,000.00 (one billion rupiah) and maximum Rp. 10,000,000,000.00 (ten billion rupiah).	*Any Person who illegally produces, imports, exports, or distributes: Category I Narcotics shall be sentenced with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a minimum criminal fine of category IV and a maximum of category V;*
Article 113 paragraph (2)	**Article 610 paragraph (2) letter a**
In the event that actions produce, import, export, or distribute Narcotics Group I as referred to in paragraph (1) in form of plant weight exceeds 1 (One) kilogram or more than 5 (five) in form of a tree trunk or not a vegetation at weight of more than 5 (five) grams, the perpetrator shall be subjected to death sentence, imprisonment for life, or imprisonment for minimum 5 (five) years and maximum 20 (twenty) years and penalty of maximum as referred to in	*In the event that the acts as referred to in paragraph (1) are conducted on: plant-based Category I Narcotics weighing more than 1 (one) kilogram or more than 5 (five) trees, or non-plant Category I Narcotics weighing more than 5 (five) grams shall be sentenced with capital punishment, life imprisonment, or imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years and a minimum criminal fine of category V and a maximum of category*

paragraph (1) plus 1/3 (one third).	*VI;*
Article 117 paragraph (1)	**Article 609 paragraph (1) letter b**
Any person who without right or illegally possess, keep, possess or provide Narcotics Group II, shall be subjected to imprisonment for minimum 3 (three) years and maximum 10 (ten) years and penalty of minimum Rp. 600.000.000,00 (six hundred million rupiah) and maximum Rp. 5,000,000,000.00 (five billion rupiah).	*Any Person who illegally owns, keeps, controls, or provides: Category II Narcotics shall be sentenced with imprisonment for a minimum of 3 (three) years and a maximum of 10 (ten) years and a minimum criminal fine of category IV and a maximum of category VI;*
Article 117 paragraph (2)	**Article 609 paragraph (2) letter b**
In the case of acts possess, store, control, provides Class II Narcotics as referred to in paragraph (1) at weight exceeding 5 (five) grams, the perpetrator shall be subjected to imprisonment for minimum 5 (five) years and maximum 15 (fifteen) years and penalty maximum as referred to in paragraph (1) plus 1/3 (one third).	*In the event that the acts as referred to in paragraph (1) are conducted on: Category II Narcotics weighing more than 5 (five) grams shall be sentenced with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a minimum criminal fine of category V and a maximum of category VI;*
Article 118 paragraph (1)	**Article 610 paragraph (1) letter b**
Any person who without right or illegally producing, importing, exporting, or channel the Narcotics Group II, shall be subjected to imprisonment of minimum 4 (four) years and maximum 12 (twelve) years and penalty of minimum Rp. 800,000,000.00 (eight hundred million rupiahs) and maximum Rp. 8,000,000,000.00 (eight billion rupiah).	*Any Person who illegally produces, imports, exports, or distributes: Category II Narcotics shall be sentenced with imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years and a minimum criminal fine of category IV and a maximum of category V;*
Article 118 paragraph (2)	**Article 610 paragraph (2) letter b**
In the event that actions produce, import, export, or distribute Narcotics Group II as referred to in paragraph (1) at weight exceeding 5 (five) grams, actor shall be subjected to death sentence, imprisonment for life, or imprisonment for 5 (five) years and maximum 20 (twenty) years and maximum penalty as referred to in paragraph (1) plus 1/3 (one third).	*In the event that the acts as referred to in paragraph (1) are conducted on: Category II Narcotics weighing more than 5 (five) grams shall be sentenced with capital punishment, life imprisonment, or imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years and a minimum criminal fine of category V and a maximum of category VI;*
Article 122 paragraph (1)	**Article 609 paragraph (1) letter c**
Any person who without right or illegally possess, keep, possess or provide Narcotics Group III, shall be subjected to imprisonment for two (2) years and maximum 7 (seven) years and penalty of minimum Rp. 400.000.000,00 (four hundred million rupiah) and maximum Rp. 3,000,000,000.00 (three billion dollars).	*Any Person who illegally owns, keeps, controls, or provides: Category III Narcotics shall be sentenced with imprisonment for a minimum of 2 (two) years and a maximum of 7 (seven) years and a minimum criminal fine of category IV and a maximum of category VI.*
Article 122 paragraph (2)	**Article 609 paragraph (2) letter c**
In the case of acts possess, store, control, provide Class III Narcotics as referred to in paragraph (1) weight exceeding 5 (five) grams, the perpetrator shall be subjected to imprisonment for minimum 3 (three) years and maximum 10 (ten) years and criminal the maximum penalty as referred to in paragraph (1) plus 1/3 (one third).	*In the event that the acts as referred to in paragraph (1) are conducted on: Category III Narcotics weighing more than 5 (five) grams shall be sentenced with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a minimum criminal fine of category V and a maximum of category VI.*
Article 123 paragraph (1)	**Article 610 paragraph (1) letter c**
Any person who without right or illegally producing, importing, exporting, or channel the Narcotics Group III, shall be subjected to imprisonment for at least 3 (three) years and maximum 10 (ten) and penalty of minimum Rp. 600.000.000,00 (six hundred million rupiah) and maximum Rp. 5,000,000,000.00 (five billion rupiah).	*Any Person who illegally produces, imports, exports, or distributes: Category III Narcotics shall be sentenced with imprisonment for a minimum of 3 (three) years and a maximum of 10 (ten) years and a minimum criminal fine of category IV and a maximum of category V.*
Article 123 paragraph (2)	**Article 610 paragraph (2) letter c**
In the event that actions produce, import, export, or distribute Narcotics Group III as referred to in paragraph (1) weight exceeding 5 (five) grams, actor shall be subjected to imprisonment minimum 5 (five)	*In the event that the acts as referred to in paragraph (1) are conducted on: Category III Narcotics weighing more than 5 (five) grams shall be sentenced with imprisonment for a minimum of 5 (five) years and a*

years and maximum 15 (fifteen) years and the maximum penalty as referred to in paragraph (1) plus 1/3 (one third).	*maximum of 15 (fifteen) years and a minimum criminal fine of category V and a maximum of category VI.*

Changes in regulations related to articles regulating narcotics crimes in the National Criminal Code, at first glance, seem to be good news. The reason is because since the enactment of the National Criminal Code in 2026, several provisions of the Article in Law No. 35 of 2009 which are often charged against drug users, have been revoked and declared invalid, such as Article 111. However, if you look at the formulations that become references, such as Article 609 paragraph (1) letter a and paragraph (2) letter a, it can be said that the reference articles in the National Criminal Code are only copies of Law No. 35 of 2009 because the difference lies only in the categorization of criminal fines. In addition, all its elements have something in common.

In turn, problems arising from the application of the law to drug abusers and addicts, when all provisions in the Narcotics Law are still in force will reappear even though the National Criminal Code has been in force. Problems such as the indecisive limitation of important definitions in the Narcotics Law resulting in further regulatory bias (such as between Article 4 and Article 54 as outlined in the initial section of the discussion of the Narcotics Law) will still occur. Moreover, the use of Article 112, which will later change to Article 609 paragraph (1) point a and paragraph (2) letter a of the National Criminal Code, may still be a priority to be used as the Primary Indictment and the First Indictment in alternative charges. With these circumstances, of course, SEMA, both SEMA Number 4 of 2010, SEMA Number 3 of 2015, and SEMA Number 1 of 2017 will still be needed to be a temporary remedy in overcoming problems arising from the casuistic application of the law. However, the amendment and repeal of Articles 111-126 in Law No. 35 of 2009 by the National Criminal Code requires that all SEMA must adjust to the existing arrangements in the National Criminal Code.

4. Conclusion

The application of the Law to drug abusers and addicts has many problems, especially in the implementation of No. 35 of 2009. These problems include the lack of boundaries of important definitions such as "abuser", "narcotics addicts", "narcotics abuse victim", and "narcotics addict who are not against the law/illegal". This problem has implications for the bias of regulation in several articles, such as in Articles 4 and 54, which have different arrangements for subjects who are required to undergo medical rehabilitation and social rehabilitation namely in Article 4 mentions "abuser", while Article 54 mentions "narcotics abuse victim". Furthermore, there is a tendency to use Article 111 or Article 112 charged with Article 127 (if an alternative charge) or without Article 127 (if a single charge) against drug abusers and drug users. This trend illustrates that the approach used is criminal, even if it is towards drug users, not drug dealers. Furthermore, the regulation of narcotics crimes in the National Criminal Code basically does not eliminate these problems because the provisions maintained through the National Criminal Code are only copies of the articles that were repealed and no longer apply to Law No. 35 of 2009.

References

Benartin, Bernardinus Putra, and Asmin Fransiska. "Pelarangan Penggunaan Narkotika Golongan I Bagi Layanan Kesehatan Dilihat Dari Perlindungan Hak Atas Kesehatan Di Indonesia." *Jurnal Paradigma Hukum Pembangunan* 5, no. 02 (February 6, 2021): 236–52. https://doi.org/10.25170/paradigma.v5i02.2120.

Eddyono, Supriyadi Widodo, Erasmus Napitupulu, and Anggara. *Meninjau Rehabilitasi Pengguna Narkotika Dalam Praktik Peradilan: Implementasi SEMA Dan SEJA Terkait Penempatan Pengguna Narkotika Dalam Lembaga Rehabilitasi Di Surabaya*. Edited by Ajeng Gandini Kamilah and Luthfi Widagdo Eddyono. Jakarta: Institute for Criminal Justice Reform, 2016.

Edyyono, Supriyadi Widodo, Erasmus Napitupulu, Subhan Panjaitan, Anggara, Ardhany Suryadarma, and Totok Yulianto. *Kertas Kerja: Memperkuat Revisi Undang-Undang Narkotika Indonesia Usulan Masyarakat Sipil*. Edited by Maidina Rahmawati. Jakarta: Institute for Criminal Justice Reform, 2017.

Fajarwati, Meirina. "Validitas Surat Edaran Mahkamah Agung (SEMA) Nomor 7 Tahun 2014 Tentang Pengajuan Peninjauan Kembali dalam Perkara Pidana Ditinjau dari Perspektif Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan." *Jurnal Legislasi Indonesia* 14, no. 2 (May 3, 2018): 145–62. https://doi.org/10.54629/jli.v14i2.97.

Irwansyah. *Penelitian Hukum: Pilihan Metode & Praktik Penulisan Artikel*. Edited by Ahsan Yunus. Cet. 4, Edisi Revisi. Yogyakarta: Mirra Buana Media, 2021.

Iskandar, Anang. *Politik Hukum Narkotika*. Jakarta: PT Elex Media Komputindo, 2020.

Marzuki, Peter Mahmud. *Penelitian Hukum*. Cet. 13, Edisi Revisi. Jakarta: Kencana Prenada Media Grup, 2017.

Mulyadi, Lilik. "Pemidanaan Terhadap Pengedar Dan Pengguna Narkoba: Penelitian Asas, Teori, Norma Dan Praktik Peradilan." *Jurnal Hukum Dan Peradilan* 1, no. 2 (July 31, 2012): 311–37. https://doi.org/10.25216/jhp.1.2.2012.311-337.

Republic of Indonesia. Law Number 1 of 2023 concerning the Criminal Code (2023).

———. Law Number 30 of 2014 on Government Administration (2014).

———. Law Number 35 of 2009 on Narcotics (2009).

Sari, Indah, Niru Anita Sinaga, and Selamat Lumban Gaol. "Implikasi Penerapan Pasal-Pasal Karet Dalam Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika Terhadap Penyalahguna Narkotika untuk Dirinya Sendiri dalam Memperoleh Hak Rehabilitasi di Pengadilan Negeri Jakarta Timur." *Jurnal Ilmiah Hukum Dirgantara* 11, no. 1 (March 7, 2021): 134–70. https://doi.org/10.35968/jh.v11i1.655.

Sinaulan, Ramlani Lina. "Politik Hukum UU No 35 Tahun 2009 Tentang Nakotika Dalam Kaitannya Dengan Pergeseran Paradigma Pemidanaan Bagi Penguna/Pecandu Dan Korban Narkotika." *JRP (Jurnal Review Politik)* 6, no. 1 (June 26, 2016): 42–67. https://doi.org/10.15642/jrp.2016.6.1.42-67.

Suci, Eunike Sri Tyas, Asmin Fransiska, and Lamtiur Hasianna Tampubolon. *Long and Winding Road: Jalan Panjang Pemulihan Pecandu Narkoba*. Jakarta: Penerbit Buku Kompas, 2015.

Suratman, and Philips Dillah. *Metode Penelitian Hukum: Dilengkapi Tata Cara & Contoh Penulisan Karya Ilmiah Bidang Hukum*. Bandung: Alfabeta, 2013.