

Implementation of Rehabilitation of Narcotics Users as Detention According to Article 127 of Law No. 35 of 2009: A Case Study of BNNP Central Java

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Abstract

This study aims to analyze the criminal law regulation of narcotics users based on Article 127 of Law Number 35 of 2009, examine the practice of implementing inpatient rehabilitation for narcotics users sentenced to one year of imprisonment, and assess whether inpatient rehabilitation may be regarded as a form of detention and its implications for the rights of the defendants. The research employs an empirical legal research method with a descriptive analytical approach. Data were obtained through interviews with investigators from the National Narcotics Agency of Central Java Province, as well as an examination of laws and regulations, legal documents, and related literature. The results of the study indicate that, normatively Article 127 of the Narcotics Law has provided a legal basis for the implementation of medical and social rehabilitation as an alternative to punitive criminal sanctions. However, in practice, the implementation of inpatient rehabilitation is not fully consistent with its rehabilitative purpose. In certain circumstances, it functions in a manner similar to detention during the legal process, particularly due to the absence of a clear time limit and divergent interpretations among law enforcement officials. This condition has implications for potential violations of the rights of defendants who use narcotics, especially the right to personal liberty, adequate medical treatment, and humane treatment. Therefore, consistency in the application of Article 127 is



needed in line with the principles of restorative justice and the protection of human rights so that rehabilitation truly functions as an instrument of social recovery and reintegration.

Keywords; *Narcotics Rehabilitation, Article 127 of the Narcotics Law, Restorative Justice, Inpatient Rehabilitation.*

Introduction

Background of the Study

In Indonesia, Narcotics offences constitute extraordinary crimes regulated under Law No. 35 of 2009 concerning Narcotics. These offences are characterized as *victimless crimes*, frequently involving organized and transnational networks, and generating multidimensional impacts on society, including health, social, and security consequences, accompanied by severe minimum criminal sanctions.¹ This condition underscores the distinctive nature of narcotics offences, thereby necessitating criminal law policies that do not merely emphasize law enforcement, but also take into account the characteristics of offenders and the broader social impacts of such offences.

The narcotics problem is also evident at the regional level. Central Java Province demonstrates a relatively high prevalence rate of narcotics use, ranking seventh nationwide in 2025, which is 1.3% or around 195,000 individuals. The circulation and use of narcotics has extended to rural areas, thereby expanding and intensifying their social impact. This condition indicates that narcotics control efforts at the regional level continue to face serious challenges, particularly in balancing law enforcement measures with rehabilitation-oriented approaches for users.

Narcotics are substances or drugs derived from plants or synthetics that can pose a different risk of dependence, depending on the type and

¹ Alfian Dimas Saputra and Benny Sumardiana, *Analysis of Decision Study 122/Pid. Sus/2023/PN. Byl On Unindicted Narcotics Abuse Trials, Bookchapter Law and Environment*, vol. 1 (2025): 146.

dosage.² In a positive legal framework, Law Number 35 of 2009 not only regulates criminalization for dealers, but also provides special arrangements for narcotics users. Article 127 also regulates medical rehabilitation and social rehabilitation as an alternative to punishment for narcotics users, which reflects a criminal law approach that emphasizes more rehabilitative *aspects*. This approach is in line with the development of modern criminal law which has begun to shift the focus of punishment from mere punishment to the protection and rehabilitation of affected individuals.

Normatively, rehabilitation is interpreted as a recovery effort for narcotics users who experience dependence, both from physical, psychological, and social aspects, in order to be able to live their daily lives reasonably, both in the family and in the community. The implementation of rehabilitation is adjusted to the needs of each individual by means of medical detoxification, where the body will be cleansed of addictive substances so that in carrying out rehabilitation requires professionals such as psychologists, doctors and social workers.³ In its implementation, rehabilitation for narcotics users is not always carried out in accordance with the expected ideal goal. Rehabilitation is often treated solely as an alternative to punishment, even in certain circumstances it functions as a form of covert detention. In fact, conceptually rehabilitation is an instrument of equitable recovery, which places narcotics users as individuals who need treatment, not solely as objects of punishment and social reintegration.

Previous research has shown that the implementation of medical rehabilitation in Indonesia is guided in principle by Law No. 35 of 2009, especially through an integrated assessment mechanism. However, the

² Agus Sukma Hariyawan and Sagung Putri M. E. Purwani, "Juridical Analysis of Articles 112 and 127 of Law Number 35 of 2009 concerning Narcotics: Reformulation Efforts to Ensure Legal Certainty," *Journal of Contemporary Law Studies* 2, no. 2 (2025): 141–15

³ Siti Hidayatun and Yeni Widowaty, "The Concept of Rehabilitation for Narcotics Users with Justice," *Journal of Law Enforcement and Justice* 1, no. 2 (2020), <https://doi.org/10.18196/jphk.1209>.

results of research at BNN Surakarta City revealed inconsistencies in the application of criteria, the cost burden for inpatient rehabilitation, and inpatient practices that are often positioned as a form of temporary detention for narcotics users.⁴ This condition shows that there is a gap between legal norms (*das sollen*) and practice in the field (*da sein*).

These gaps indicate that the effectiveness of rehabilitation arrangements is highly dependent on consistent implementation by law enforcement officials and the availability of adequate monitoring mechanisms. Clear, transparent, and legal certainty administrative procedures are important prerequisites for the effective implementation of state policies, especially in the field of law enforcement and protection of public interests.⁵ This uncertainty has the potential to lead to disproportionate restrictions on freedoms and implications for violations of human rights, especially the right to liberty and humane treatment.

This condition raises problems related to the legal position of narcotics users as defendants in the criminal justice process. In practice, hospitalized rehabilitation often functions as a means of restricting freedom during legal proceedings, while investigations are not always limited by a clear time frame. As a result, the status of suspects can last for a long time without legal certainty and has the potential to violate human rights, especially the right to freedom and humane treatment. This situation raises a legal dilemma when rehabilitation is carried out without clarity on the duration and legal status of the individual.

The implementation of rehabilitation also faces structural obstacles in the form of limited facilities and resources, so that the goal of rehabilitation as an effort for social reintegration has not been fully achieved and is still often perceived as a form of covert restriction of freedom. The

⁴ Febrilia Rustina Arfiani et al., *APPLICATION OF MEDICAL REHABILITATION TO NARCOTICS ABUSERS (CASE STUDY AT BNN SURAKARTA CITY)*, I, NO. 1 (2024).

⁵ Benny Sumardiana, Pujiono, dan Irma Cahyaningtyas, "Reforming Justice: Unpacking the Pre-Judication and Post-Judicate Dynamics of the Sarpin Case in Law and Practice in Indonesia," *Lex Scientia Law Review* Vol. 8 No. 2 (2024): 1089–1116, <https://doi.org/10.15294/lslr.v8i2.1367>.

unclear deadline for investigations also extends the status of suspects and is contrary to the principle of legal certainty, which emphasizes the importance of clarity of norms and limits of state authority in limiting the freedom of narcotics users.

According to the perspective of criminal law, rehabilitation is positioned as an instrument of rehabilitation, not a covert punishment, while still paying attention to criminal responsibility. According to Van Hamel, mistakes in a crime reflect the psychological relationship between the perpetrator's inner state and the realization of the element of the crime, so that the psychological condition of rehabilitation is an important factor in determining criminal liability and the need for rehabilitative intervention.⁶

The development of rehabilitation policies shows a shift in the paradigm of countering narcotics crimes towards a more humanist approach, which places narcotics users as subjects in need of health and social interventions. However, the unclear boundary between rehabilitation as a recovery and as a restriction on freedom still raises conceptual and practical problems. Therefore, a legal study is needed that places rehabilitation as an integral part of the criminal procedural law system based on the principles of legality, legal certainty, proportionality, and protection of human rights, in order to ensure its conformity with the objectives of Article 127 of Law Number 35 of 2009.

Problem Formulation

1. How is inpatient rehabilitation implemented for narcotics users sentenced to one year of imprisonment?
2. Can inpatient rehabilitation be considered a form of detention, and what are its implications for the rights of narcotics-using defendants?

Purpose of Writing

⁶ Fernando, Y., & Wasiska, A. (2023). Criminal acts and their elements versus participation / criminal acts of participation versus criminal liability. *UIC Scientific Journal*, 1(1), 57-57.

The general purpose of this study is to analyze the implementation of rehabilitation of narcotics users as a form of detention based on Article 127 of Law Number 35 of 2009 through a case study at BNNP Central Java, as well as assess its implications for the protection of the rights of defendants and the effectiveness of rehabilitation goals.

The specific purpose of this study is to describe the legal arrangements regarding criminal penalties against narcotics users as stated in Article 127 of Law Number 35 of 2009, explain the practice of implementing inpatient rehabilitation for narcotics users sentenced to one year in prison at BNNP Central Java, and analyze whether inpatient rehabilitation can be seen as a form of detention and assess its implications for the rights of narcotics using defendants.

This research is expected to make an academic contribution to the development of narcotics criminal law, especially in understanding the position of rehabilitation within the framework of criminal procedural law, as well as becoming a normative consideration for the formulation of rehabilitation policies that ensure legal certainty, proportionality, and protection of the rights of defendants.

Method

This study employs an empirical legal research method with an descriptive analytical approach to examine the implementation of inpatient rehabilitation for narcotics users at the National Narcotics Agency of Central Java Province and its conformity with the provisions of Article 127 of Law Number 35 of 2009 concerning Narcotics. Primary data were obtained through interviews with relevant officers, while secondary data were sourced from laws and regulations, BNNP operational guidelines or standards, as well as relevant legal

literature. This approach is used to analyze the between normative arrangements and rehabilitation implementation practices in the field.

As stated by Soerjono Soekanto, empirical legal research aims to examine the effectiveness of law and how law works in practice, so as to allow the identification of gaps between legal norms (*das sollen*) and their implementation in the field (*das sein*).⁷

Results and Discussion

Analysis of Rehabilitation Law Based on Article 127 of Law N. 35 of 2009

This subchapter departs from the view that the implementation of inpatient rehabilitation that is not accompanied by a clear deadline and certainty of legal status has the potential to cause restrictions on freedom for narcotics users. In practice, these conditions can place inpatient rehabilitation in a position that resembles detention as stipulated in the Criminal Procedure Code (KUHAP). As a result, inpatient rehabilitation risks shifting its function from a recovery instrument to a de facto form of restriction of freedom, which needs to be reviewed from the perspective of criminal procedure law and the principle of human rights protection.

Article 127 of Law Number 35 of 2009 concerning Narcotics emphasizes that any abuse of narcotics, especially those who have been proven to be dependent, can be subject to criminal sanctions as well as the possibility of undergoing medical and social rehabilitation. This provision is a form of implementation of the principle of restorative justice, which emphasizes the recovery of the physical,

⁷ Hasan, M. F. (2024). *Effectiveness of Supreme Court regulation omor 5 of 2019 concerning marriage dispensation from the theoretical perspective of the Effectiveness of the Law Soerjono Soekanto: A case study at the Mojokerto Religious Court* (Doctoral dissertation, Maulana Malik Ibrahim State Islamic University)

psychological, and social conditions of abusers so that they can participate productively in society again.⁸ This shows that Article 127 cannot be separated from the purpose of legal protection of narcotics abusers as subjects in need of remedial intervention. Article 127 is an important normative basis for the application of a rehabilitative approach in the narcotics criminal justice system.

Because rehabilitation is considered a form of legal protection for abusers to restore dignity and dignity as a whole. Normatively, the regulation of rehabilitation under Article 127 is intertwined with the principle of restorative justice, which places the restoration of the physical, psychological, and social conditions of abusers as the main goal of law enforcement. This approach marks a shift in the paradigm of criminal law from a repressive model to a rehabilitative model, where punishment is no longer understood solely as a means of retribution, but as an instrument of legal protection to restore human dignity and dignity. In this context, narcotics abusers are not fully positioned as legal subjects in need of remedial intervention.⁹

Victims of narcotics abuse are obliged to carry out medical and social rehabilitation, which is strengthened through the Supreme Court Circular Letter (SEMA) No. 4 of 2010 regarding the placement of narcotics abuse in medical and social institutions.¹⁰

In judicial practice, the application of Article 127 has been carried out selectively by considering certain qualifications, such as arrest by hand, the amount and type of narcotics used for personal consumption, the results of laboratory tests that indicate the use of narcotics,

⁸ Flora, H. S. (2025). Restorative justice as an effective approach to victim protection: Prioritizing justice and restoration. *JOURNAL OF JUSTICE LAW*, 78-89.

⁹ Dudy, A. A., Ashady, S., & Ahwan, A. (2026). Law Enforcement Against Narcotics Crimes Based on Law No. 35 of 2009 and the Attorney General's Guidelines No. 11 of 2021. *Empowered Indonesia*, 7(1), 279-290.

¹⁰ Nathanael Kifly Iroth, Roy R. Lembong, and Nixon Wulur, "The Implementation of Rehabilitation for Drug Users Based on Article 54 of Law No. 35 of 2009 concerning Narcotics," *Lex Crimen, Journal of the Faculty of Law, UNSRAT* 12, no. 5 (2024).

and the absence of involvement in illicit trafficking. This selectivity is intended to ensure that rehabilitation is given to abusers who really need recovery, and not to perpetrators who have a role as drug dealers or manufacturers. Thus, Article 127 requires the prudence of law enforcement officials and classifies the legal status of the defendant.

The relationship between Article 127 and Article 54 of Law No. 35 of 2009 strengthens this rehabilitative orientation. Article 54 affirms the obligation of rehabilitation for addicts and kirban of narcotics abuse, which conceptually views the user as an individual who needs that the legal system opens up space for the application of alternative penalties, where rehabilitation can be prioritized as long as the abuser meets the specified criteria and is not proven to be involved in the illicit circulation of narcotics.

Practically, the implementation of the Supreme Court Circular Letter (SEMA) Number 4 of 2010 plays a strategic role as a guideline for judges, prosecutors, and investigators in getting narcotics abusers to medical and social rehabilitation institutions. The recommendations of the Integrated Assessment Team (TAT) are an important consideration for judges in determining whether the defendant deserves to undergo rehabilitation or be sentenced to prison.¹¹ The existence of SEMA aims to encourage consistency in the application of Article 127 which is carried out selectively based on certain qualifications, such as arrest by hand, evidence of narcotics use in one day, positive laboratory results, a doctor's certificate or psychiatrist who has been appointed by a judge, and not proven in the illicit circulation of narcotics.¹²

¹¹ Pasaribu, F. V., Siregar, M., Mulyadi, M., & Marlina, M. (2023). The Strength of Evidence of the Recommendations of the National Narcotics Agency Integrated Assessment Team for Narcotics Abuse Defendants to be rehabilitated. *Locus Journal of Academic Literature Review*, 560-565. DOI: <https://doi.org/10.56128/ljoalr.v2i6.190>

¹² Eka Kurniawatie, "The Basis of Judges' Considerations for Narcotics Abuse Reviewed from the Rehabilitation Aspect Based on Article 127 of Law Number 35 of 2009 concerning Narcotics,"

However, the implementation of Article 127 in practice has not fully reflected the goals of restorative justice. The circulation of law enforcement officials' interpretation of the concept of "abusers", as well as the limited facilities and resources of rehabilitation, is often the main obstacle. As a result, rehabilitation under certain conditions has the potential to shift from an instrument of recovery to a form of restriction of freedom that resembles detention. This condition shows that the implementation of Article 127 still faces structural and cultural challenges in the criminal justice system.

The interpretation of Article 127 of Law No. 35 of 2009 emphasizes that rehabilitation is intended as an effort to recover and socially reintegrate narcotics abusers, so it cannot be treated as a disguised punishment in law enforcement practices. Consistency in law enforcement that is in line with the philosophy of rehabilitation and restorative justice is an important prerequisite so that the goal of recovery of narcotics abusers can be achieved optimally, while ensuring legal certainty and the protection of human rights in the criminal justice process.

In addition, the existence of Article 127 of Law No. 35 of 2009 shows that the narcotics law does not stand solely as a repressive instrument, but also as a means of social policy oriented towards recovery. This arrangement requires law enforcement officials to conduct a careful assessment of the abuser's subjective condition, including the level of dependence and background of narcotics use. This assessment is important so that the implementation of rehabilitation is not carried out formally, but based on the real needs of the abuser. In this context, rehabilitation is a form of state intervention that aims to prevent the recurrence of abuse and reduce the broader social impact. Such an approach reinforces the position of Article 127 as a norm that

balances the interests of law enforcement and individual protection, while affirming that the punishment of narcotics abusers must be placed in a proportionate and fair manner.

Inpatient Rehabilitation as a Form of Restriction of Freedom (Analysis of the Criminal Code and Human Rights)

Detention in law enforcement practice is often carried out without strictly paying attention to the provisions of Article 21 of the Criminal Code, especially objective requirements in the form of criminal threats. As a result, detention is often applied in a generalized manner to everyone who has the status of a suspect, without proportionate consideration of the legal basis and the need for detention. Such practices have an impact on the increasing number of residents of detention places and create social stigma for suspects and their families, even though there has been no court decision with permanent legal force, so that the principle of presumption of innocence is ignored.

Normatively, Article 1 number 21 of the Criminal Code defines detention as the placement of a suspect or defendant in a certain place by an investigator, public prosecutor, or judge based on the determination and in the manner regulated by law. Detention can only be carried out if it meets the legal basis in the form of strong suspicions based on sufficient evidence and certain criminal threats, and the basis of necessity in the form of concerns that the suspect or defendant will flee, eliminate evidence, or repeat the criminal act.¹³ The reason for this need is alternative, but must still be preceded by the fulfilment of objective conditions as determined by the Criminal Code.

Based on a human rights perspective, detention is a form of *deprivation of liberty*, which is the restriction or deprivation of a person's liberty

¹³ Anzhari, S., & Muhibbin, M. (2024). Detention of Suspects in Indonesian Criminal Law Studies. *Jurisprudence: Journal of Law*, 7(1).

by the state.¹⁴ The assessment of the deprivation of independence is not based on the policy used, but on the legal effect in the form of the loss of freedom of movement and the existence of control by state authorities. Therefore, any action that restricts a person's freedom must have a clear legal basis, a legitimate purpose, and be implemented through a proportionate and testable procedure. Restrictions on freedom that are carried out without complying with the provisions of the criminal procedure law have the potential to violate the principles *of due process of law* and human rights as guaranteed in Law Number 39 of 1999 concerning Human Rights.¹⁵ Therefore, any policy that impacts the restriction of individual freedoms must be subject to the principles of legality, proportionality, and accountability.

Inpatient rehabilitation can be qualified as a form of restriction of freedom that resembles detention if in its implementation it meets certain indicators, including restrictions on freedom of movement in rehabilitation, supervision or control by state apparatus or institutions, an obligation for rehabilitators to stay in rehabilitation facilities without the option to leave freely, and the absence of clarity on the time limit for rehabilitation. Is legally determined. Under such conditions, inpatient rehabilitation no longer functions solely as an instrument of recovery, but rather exhibits characteristics of restrictions on liberty that substantially resemble detention.

The unclear time limit in the restriction of freedom by the state has long been a problem in Indonesia's criminal procedure law. The absence of an investigation deadline in the Criminal Code creates legal uncertainty and has the potential to violate the human rights of suspects,

¹⁴ Affandy, M. I. (2025). *IMPLEMENTATION OF REMISSION FOR NARCOTICS INMATES (Study at the Class II B Tebing Tinggi Correctional Institution)* (Doctoral dissertation, Faculty of Law, Islamic University of North Sumatra). (Freedom of Speech)

¹⁵ Zevanya, K., Hania, S., Alysha, N., Prabandari, D., Arista, N., Syajidah, H. A., & Manohara, S. (2025). The Importance of Law Enforcement and Human Rights for Inmates in Prisons (Case Study of Class IIa Drug Prison Yogyakarta 2022). *Indonesian Legal Media (MHI)*, 3(3).

especially the right to freedom and legal certainty.¹⁶ In principle, the findings affirm that any form of restriction of independence by the state, whether through detention or other mechanisms that factually resemble detention, must be regulated in a clear, measurable, and legally testable manner. Therefore, if inpatient rehabilitation is carried out without a definite time limit and without an effective monitoring mechanism, then the practice has the potential to raise human rights issues similar to protracted investigations. From the perspective of criminal procedure law, this condition has the potential to create a form of restriction of freedom that does not have a firm legal basis.

This condition is also reflected in the practice of criminal justice, where the application of procedural law does not always run consistently with the principles of legal certainty and *due process of law*. In the Boyolali District Court Decision Number 122/Pid.Sus/2023/PN. Byl, the judge handed down the verdict based on provisions that were not charged by the Public Prosecutor with consideration of substantive justice.¹⁷ Although it aims to prevent perpetrators from escaping criminal liability, such practices indicate the potential for procedural irregularities that can have an impact on restricting individual rights and freedoms outside the criminal procedure law mechanism. This illustration emphasizes the importance of clarity of boundaries and oversight mechanisms in any form of restriction of liberty by the state, including inpatient rehabilitation.

In relation to the Criminal Code, it should be emphasized that Indonesia's criminal procedure law system regulates detention in a limited manner, both in terms of authority, conditions, and time frame. Inpatient rehabilitation is not explicitly mentioned as a form of detention in

¹⁶ Karina Azzahra Salsabila and Benny Sumardiana, "Analysis of the Effectiveness of the Investigation Deadline in the Criminal Code on the Protection of Human Rights of Suspects," *Journal of Legal Analysis* Vol. 8 No. 1 (2025): 11–24, <https://doi.org/10.38043/jah.v8i1.6096>.

¹⁷ Saputra, A. D., & Sumardiana, B. (2025). Analysis of the Study of Decision 122/Pid. Sus/2023/PN. Byl about attempted narcotics abuse was not charged. *Bookchapter Law and Environment*, 1, 141-159.

the Criminal Code. However, if in practice inpatient rehabilitation causes a legal effect equivalent to detention, in the form of deprivation of independence and restrictions on freedom carried out by the state, then de facto such rehabilitation has the potential to become a form of detention outside the mechanism regulated by the Criminal Code. This condition raises serious legal problems related to the legality of actions, legal certainty, and the protection of the human rights of suspects or defendants in the criminal justice process.

Based on this description, it is important to further examine the rehabilitation arrangements in Law Number 35 of 2009 concerning Narcotics and its implementing regulations, in order to assess whether the inpatient rehabilitation mechanism has been designed and implemented in accordance with the principles of criminal procedure law and the protection of human rights.

Rehabilitation Provisions in the Narcotics Law

Law Number 35 of 2009 concerning Narcotics expressly states that narcotics can only be used for the purposes of health and the development of science and technology. Narcotics abuse, namely use without state permission, is an unlawful act, but the Law simultaneously opens up a special treatment space for users who experience dependence as victims of narcotics abuse. Thus, a humanist approach is not merely a punishment. Rehabilitation as an alternative to punishment for narcotics users who are victims of dependence on addictive substances, in other words, the Narcotics Law opens up space for a more humane legal approach.¹⁸

Technically-juridically, the determination of rehabilitation is carried out by law enforcement officials and authorized institutions through the

¹⁸ Kriswandaru, Althea Serafim. "Policy of Law Number 35 of 2009 concerning Narcotics on the Prevention and Control of Crime in the Central Java Region." *INNOVATIVE: Journal of Social Science Research* 4, no. 3 (2024): 15472–15482. <https://j-innovative.org/index.php/Innovative>.

formation of the Integrated Assessment Team (TAT), which involves medical and law enforcement elements, including doctors, psychologists, the police, the National Narcotics Agency (BNN), the Prosecutor's Office, and the Ministry of Law and Human Rights (Kemenkumham). TAT was formed at the request of investigators and is tasked with analyzing the legal status of individuals involved in narcotics cases, whether as addicts, abusers, or victims of narcotics abuse. The results of this assessment are an important basis in determining whether a person is more appropriately directed to rehabilitation or the process through conventional punishment.

The results of empirical research show that the implementation of TAT has taken place. Including within the BNN of Central Java Province. Throughout 2024, the Central Java Provincial BNN will rehabilitate nearly 2,000 narcotics users with varying levels of dependence, ranging from mild to severe categories. This data shows that rehabilitation does not only stop at the normative level, but has become part of law enforcement practices. However, the proportion of inpatient and outpatient recommendations shows that there is a strict selection based on assessment criteria, which in practice still faces operational constraints.

Based on the results of the interview with the Central Java BNNP Primary Investigator, it is known that the determination of rehabilitation is highly dependent on the results of a comprehensive assessment conducted by TAT. The assessment includes the level of dependence, narcotics use patterns, and the social and psychological background of the abuser. According to the source, the assessment serves as the main screening instrument to distinguish abusers who deserve rehabilitation from those who must be criminally processed. In practice, medical and social rehabilitation is seen as a form of legal protection for abusers as required by Article 127 of the Narcotics Law. BNNP Central Java, there are still challenges in the implementation of these norms, especially

related to differences in understanding between law enforcement officials regarding the position of abusers as victims as well as perpetrators, so that it has implications for the application of rehabilitative approaches in law enforcement practices that have not been optimal. This condition shows that there is a gap between the norms of Article 127 of the Narcotics Law and the reality of its implementation in the field, which demands the strengthening of coordination and uniformity of perspective in the narcotics criminal justice system.

The rehabilitation recommended by the TAT is in principle divided into medical rehabilitation and social rehabilitation.¹⁹ Medical rehabilitation is a health service facility for addicts, victims of abuse, and narcotics abusers managed by the government, which carries out medical rehabilitation professionally. The medical rehabilitation process begins with a psychological and psychiatric examination, where the rehabilitator and the introduction are asked for information about the background of use, the type of drug consumed, how to use, and other matters related to the history of use. This stage aims to find out the psychological condition of the rehabilitation and determine the type of therapy or treatment material to be given.²⁰ Medical rehabilitation is a treatment to free the feeling of dependence from narcotics abuse. In carrying out medical rehabilitation, a professional is needed, namely a doctor who treats patients thoroughly who have impaired brain function and mental disorders.

Meanwhile, social rehabilitation emphasizes comprehensive recovery, both physical and mental, through social guidance, individual and group counseling, experience sharing, and religious therapy, which aims to foster responsibility, motivation, and social reintegration so that

¹⁹ Putri Lidia Damayanti, "The Role of Rehabilitation Institutions in the Narcotics Criminal Law System in Indonesia," *Journal of Law, Politics and Social Sciences* 3, no. 4 (December 2024): 297.

²⁰ M.Pd. Muh. Fajaruddin Atsnan and M.Pd. Rahmita Yuliana Gazali, *COMPLETE ENCYCLOPEDIA OF REHABILITATION DRUGS FOR DRUG ADDICTS*, 4th ed., ed. by Th. Arie Prabawati (Andi Publishers, 2018).

rehabilitation can return to productive in society. Social rehabilitation rehabilitation that carries out an integrated process both physically and mentally with the aim that narcotics addicts can re-carry out social functions in life.

The next stage is further development, which is activities that are tailored to rehabilitation interests and talents, including continuing education or returning to work. The government has strengthened the legal basis for rehabilitation through Law No. 35 of 2009 concerning Narcotics, Government Regulation No. 25 of 2011 concerning the Implementation of Mandatory Reporting of Narcotics Addicts, and Joint Regulation of 2014 concerning the Handling of Addicts and Victims of Narcotics Abuse. Rehabilitation can be done through both inpatient and outpatient programs, with key differences in the location of care and the intensity of rehabilitation attendance, while individual and group therapy approaches, as well as family support, remain important similarities in both types of programs.

Legally, the goal of regulating rehabilitation as a criminal alternative is to recover narcotics users from dependence, return them to productive members of society, and reduce the burden on correctional institutions by reducing the rate of relapse and crime related to narcotics abuse.

The Principle of Justice in Rehabilitation

The principle of justice in the rehabilitation of narcotics users departs from the recognition that narcotics users, especially those who experience dependence, can not only be positioned as perpetrators of criminal acts, but also as individuals who are in a condition of dependence due to addictive substances. From a criminal law perspective, this condition of dependence places narcotics users as victims of narcotics

abuse itself, so that a purely repressive legal approach has the potential to ignore the substantive justice aspect.²¹

Article 127 of Law Number 35 of 2009 concerning Narcotics reflects the state's efforts to balance the interests of law enforcement and the protection of narcotics users. Although this article still contains criminal threats, the existence of rehabilitation as an alternative to punishment shows that justice is not interpreted narrowly as retribution, but as an effort to restore individuals affected by dependence. Thus, justice in this context is closer to restorative justice, which focuses on the restoration of individual conditions and social reintegration.

In line with this framework, rehabilitation has a central role as an instrument of equitable recovery. Medical rehabilitation serves to restore the physical and psychological condition of the user from addictive substance dependence, while social rehabilitation is directed at restoring the social function, responsibility, and ability of the individual to return to productive participation in society. This comprehensive recovery is a concrete form of justice, because the state not only punishes, but is also responsible for facilitating the recovery of individuals so that they do not fall back into narcotics abuse.²²

Law enforcement practices show that the application of the principle of restorative justice in the rehabilitation of narcotics users is still varied. Law enforcement officials are often in a position to balance legal certainty, the interests of enforcement, and the protection of the rights of narcotics users. Differences in understanding the user's position as a victim of dependency affect the determination of rehabilitation, whether it is placed as a means of recovery or just an alternative to punishment. This condition confirms that restorative justice is not

²¹ Mutmainnah, N., & Turkiani, E. (2026). Legal Politics of Prosecution of Addicts Victims of Narcotics Abuse. *Al-Zayn: Journal of Social Sciences & Law*, 4(1), 2323-2333. <https://doi.org/10.61104/alz.v4i1.3457>

²² Darwis, M. K. (2018). *Punishment or Rehabilitation: A Sociological Review of Actions Against Nafza Abusers* (Vol. 1). LEGITIMATE MEDIA.

sufficiently understood normatively, but demands consistent application to judicial practice. Rehabilitation as a manifestation of restorative justice should be based on the medical and social needs of narcotics users, not just formal juridical considerations. If the orientation of rehabilitation is not the main basis, rehabilitation risks being treated as a variation of punishment, so that the goal of social reintegration is not optimally achieved and has the potential to cause substantive injustice.

However, the principle of justice in rehabilitation requires that its implementation does not deviate from its main goal. Rehabilitation that is carried out disproportionately, without clear time limits, or without adequate service standards, has the potential to turn into a restriction of freedom that resembles detention. Such a condition is contrary to the principle of justice, because it puts narcotics users in a disadvantaged position without providing optimal recovery benefits.

Therefore, justice in rehabilitation must be understood as a balance between the protection of the rights of narcotics users as legal subjects and the goal of law enforcement to prevent narcotics abuse. Fair rehabilitation requires legal certainty, proportionality of action, and a consistent orientation to physical, psychological, and social recovery. With this approach, rehabilitation is not only an alternative to punishment, but also a means to realize substantive justice as required by Article 127 of the Narcotics Law.

The principle of rehabilitation justice is closely related to the principle of proportionality of criminal law. Every state intervention against narcotics users must be adjusted to the level of dependence, the role of the individual in the crime, and the recovery goals to be achieved. The uniform implementation of rehabilitation without considering the user's personal condition has the potential to cause injustice because it ignores the difference in medical and social needs. The determination of the form and duration of rehabilitation needs to be based on an objective and comprehensive assessment so that state actions remain in the corridor of justice.

The principle of rehabilitation justice also demands an effective monitoring mechanism. Supervision is needed to ensure rehabilitation functions as a means of rehabilitation, not as a covert punishment. The roles of law enforcement officials, medical personnel, and rehabilitation institutions must be placed proportionally according to their respective functions and authorities. The dominance of the penal approach has the potential to obscure the goal of recovery and reduce the value of justice to be achieved.

Rehabilitation justice is achieved if its implementation is individual, proportional, and transparent. Rehabilitation oriented to the medical and social needs of narcotics users reflects substantive justice because it does not stop at imposing sanctions, but seeks to prevent the recurrence of abuse and restore the individual's position in community life.

Rights of Defendants in Rehabilitation

The implementation of rehabilitation of defendants who use narcotics within the framework of Article 127 of Law Number 35 of 2009 cannot be separated from the principle of human rights protection. Although the defendant is in a criminal justice process, the status does not abolish the basic rights inherent to him as a subject of law.²³ Therefore, rehabilitation must be carried out as a form of fulfillment of rights, not as an arbitrary restriction of freedom.

One of the fundamental rights of the defendant in rehabilitation is the right to proper medical treatment. Medical rehabilitation must be carried out according to the standards of health professionals, through comprehensive initial examinations, determination of therapy methods appropriate to the level of dependence, and continuous supervision by competent medical personnel. The fulfillment of the right to proper medical services is crucial because rehabilitation is aimed at restoring the physical and psychological condition of the defendant from

²³ Semendawai, A. H. (2016). Determination of justice collaborator status for suspects or defendants from a human rights perspective. *Journal of Law*, 3(3), 468-490. DOI: <https://doi.org/10.22304/pijh.v3.n3.a2>

narcotics dependence. If rehabilitation is carried out without adequate service standards, then the goal of recovery as required by Article 127 of the Narcotics Law will not be achieved, and even has the potential to violate the right to health.

In addition to the right to medical services, the defendant also has the right to social reintegration.²⁴ Rehabilitation cannot be understood solely as an individual healing process, but rather as part of an effort to return the defendant to a reasonable social life. The restoration of social functions through social rehabilitation aims to enable the defendant to return to his social role in the family and society, as well as reduce the risk of recidivism. Thus, the right to social reintegration is a logical extension of the right to rehabilitation, which places rehabilitation as a future-oriented means of justice, not simply a response to past actions.

The protection of the rights of the defendant at the rehabilitation stage also includes a guarantee of procedural certainty during the program. The defendant has the right to know the legal basis for the placement of rehabilitation, the purpose of the rehabilitative action, and its relationship with the ongoing criminal justice process. This procedural certainty is important to prevent the occurrence of uncertainty of legal status that can harm the defendant. Rehabilitation that is carried out without clarity of procedures has the potential to create an unfounded perception of restrictions on freedom, thereby weakening the legitimacy of rehabilitation as an instrument of recovery. Therefore, information disclosure and procedural clarity are an integral part of protecting the rights of defendants during rehabilitation.

If reviewed more broadly, the implementation of rehabilitation must also ensure the protection of human rights during the rehabilitation process. Rehabilitation should not be carried out as a form of covert detention, especially if it is carried out in the form of hospitalization

²⁴ Asmawati, H. (2022). Analysis of Strengthening the Correctional System through the Concept of Social Reintegration. *Journal of Indonesian Studies*, 1(2), 172-186 <https://doi.org/10.59066/jmi.v1i2.209>

without a clear legal basis, duration, and supervision mechanism. Rehabilitation practices that disproportionately limit the freedom of the defendant have the potential to violate the principles of due process of law, the right to personal liberty, and the right to humane treatment. Therefore, the implementation of rehabilitation must be accompanied by legal certainty, procedural transparency, and effective supervision.

Thus, the rights of defendants in rehabilitation reflect a balance between the interests of law enforcement and the protection of individuals. Rehabilitation carried out by upholding the right to proper medical treatment, the right to social reintegration, and the protection of human rights will strengthen the purpose of Article 127 of Law No. 35 of 2009 as an instrument of recovery. On the contrary, the neglect of these rights has the potential to shift rehabilitation from an instrument of justice to a form of restriction of freedom that is contrary to the purpose of criminal law.²⁵

The fulfillment of the rights of the defendant in rehabilitation is also closely related to the principle of justice, namely non-discriminatory treatment and in accordance with the needs and conditions of the defendant. Narcotics users cannot be treated more harshly just because of their status as users, especially when rehabilitation is placed as an alternative to punishment. Any restrictions on liberty that arise during the rehabilitation process must be based on objective medical and social needs, not mere administrative considerations or the practical interests of law enforcement.

The right of the defendant to obtain clear information about the legal status, the duration of rehabilitation, and the rights and obligations during the rehabilitation program is also part of the protection of procedural rights. The clarity of this information is important so that the defendant is not in an uncertain position, especially when rehabilitation is

²⁵ Pasaribu, J. (2022). *Reconstruction of Rehabilitation Regulations for Children of Drug Users Based on the Value of Justice*. Sultan Agung Islamic University (Indonesia).

carried out at the same time as the criminal justice process that is still ongoing. Ambiguity about the duration and legal basis of rehabilitation has the potential to blur the line between rehabilitation efforts and restrictions on freedom.

Therefore, an effective monitoring and evaluation mechanism is needed for the implementation of rehabilitation. Supervision is aimed not only at assessing the success of rehabilitation programs, but also at ensuring that rehabilitation continues to run in accordance with the principles of criminal procedure law and the protection of human rights.²⁶With adequate supervision, rehabilitation can be carried out proportionately and remain oriented towards the recovery and social reintegration of defendants who use narcotics.

The fulfillment of the rights of rehabilitation defendants also includes guarantees of humane treatment during the program. Any form of disciplinary action, restriction of activities, or supervision must be oriented towards the interests of recovery, not repressive. Degrading treatment, use of force, or excessive restrictions are not only contrary to the purpose of rehabilitation, but also violate the inherent human rights principles of the defendant as subjects of the law. The protection of human dignity is an important element so that rehabilitation does not lose its legitimacy as an instrument of justice.

The defendant's right to file an objection or obtain legal remedies for the implementation of rehabilitation also needs to be guaranteed.²⁷ Access to complaint mechanisms, legal assistance, and reassessment of rehabilitation needs are part of the protection of procedural rights. Without such a correctional room, rehabilitation has the potential to be carried out unilaterally and behind closed doors, thus placing the defendant in a vulnerable position to abuse of authority.

These rights affirm that rehabilitation is not just a technical policy, but part of the criminal justice process that must be subject to the principles of legality,

²⁶ Rio Saputra, S. H., MH, D. L., SH, M., & Dharma Setiawan Negara, S. H. (2025). *Criminal Procedure Law Reform: Welcoming a New Criminal Code*. Bird Library.

²⁷ Daharis, A., Herlina, S., Suningrat, N., & Rahman, Y. S. (2024). rights of suspects and defendants in the trial process. *Collaborative Journal of Science*, 7(6), 2207-2214.

accountability, and individual protection. Rehabilitation that respects the rights of the accused will strengthen trust in the criminal justice system and ensure that the rehabilitation approach is truly aligned with the goals of modern criminal law.

Conclusion

Based on the results of an empirical research study on the implementation of rehabilitation of narcotics users based on Article 127 of Law Number 35 of 2009 in the Central Java BNNP, it can be concluded that normatively Article 127 has provided a legal basis for the implementation of medical and social rehabilitation as an alternative to criminalization for narcotics users who experience dependence, by placing rehabilitation as an instrument of recovery and legal protection.

In practice, the implementation of inpatient rehabilitation has been carried out through the mechanism of the Integrated Assessment Team as the basis for determining the feasibility of rehabilitation, but the implementation is not fully consistent with the purpose of rehabilitation because in certain conditions inpatient rehabilitation still functions to resemble detention during the legal process, especially when the investigation runs without a clear time limit.

As a result, inpatient rehabilitation has the potential to be perceived as a form of restriction of freedom that has an impact on the fulfillment of the rights of defendants who use narcotics, especially the right to personal liberty, the right to proper medical treatment, and the right to humane treatment. Therefore, it is necessary to strengthen the consistency of the application of Article 127 of the Narcotics Law through uniformity of understanding of law enforcement officials, clarity of rehabilitation time limits, and effective supervision so that rehabilitation truly functions as a means of recovery and social reintegration, not as a covert punishment. and respect for human rights.

Based on the results of the study, the success of rehabilitation as an alternative to punishment is largely determined by the clarity of the legal framework and the consistency of its implementation. Inpatient rehabilitation must be placed strictly as an instrument of recovery based on medical and social needs, not as a means of securing the criminal justice process. Therefore, improving technical regulations, improving coordination between law enforcement officials, and strengthening judicial control mechanisms are important steps to prevent disproportionate restrictions on freedom. With this approach, rehabilitation is expected to be able to carry out a balanced dual function, namely

protecting the community from the impact of narcotics abuse while ensuring the protection of the human rights of narcotics users as legal subjects.

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