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Reconstruction of the Mandatory Rehabilitation Policy for Drug Abusers in the Implementation of Law Number 35 of 2009 concerning Narcotics Based on Integrated Assessment to Suppress Recidivism in Drug Crimes

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Abstract: *This study aims to analyze and reconstruct the mandatory rehabilitation policy for drug abusers in the Indonesian legal system to reduce recidivism of drug crimes. The study employs a normative juridical method with a statutory and conceptual approach, by examining the provisions of Law Number 35 of 2009 concerning Narcotics, specifically Articles 54, 103, and 127, and their relationship to Law Number 22 of 2022 concerning Corrections and Law Number 17 of 2023 concerning Health. The results of the study indicate inconsistencies in norms and the dominance of a criminal approach in practice, which is exacerbated by the weak implementation of integrated assessments and disharmony between the legal and health sectors, resulting in overcrowding of correctional institutions and high recidivism rates. Therefore, this study proposes a reconstruction of rehabilitation policy based on integrated assessments by strengthening the position of assessment results as a binding basis, limiting the discretion of law enforcement officers, and integrating penal and non-penal approaches into a coherent system. The reconstruction is expected to create a more effective, equitable, and recovery-oriented drug abuse management system.*

Keywords: *drug rehabilitation, integrated assessment, legal policy, recidivism.*

Introduction

The dynamics of narcotics-related crime in Indonesia continue to present significant challenges for the criminal justice system, particularly in relation to the extensive use of imprisonment and the resulting pressure on correctional institutions. Official data from the Directorate General of Corrections indicate that in 2024 Indonesian correctional institutions had a capacity of 140,424 persons but accommodated 274,176 prisoners and detainees, resulting in an overcrowding rate of approximately 95 percent. (Kementerian Imigrasi dan Pemasyarakatan, 2025) The correctional authority has also identified the continued reliance on imprisonment, including in narcotics-related cases, as one of the structural factors contributing to this condition. This situation raises questions regarding the effectiveness of a predominantly punitive approach toward narcotics offenders whose involvement may be

associated with dependency and a need for medical and social intervention. The dominance of criminalization in law enforcement practices remains more prominent than the application of rehabilitation, even though the normative framework has accommodated this approach (Suyono, R. G., Murhaini, S., & Kristanto, 2026). The war on drugs paradigm, which highlights criminalization and harsh action, has been criticized for its limited capacity to address drug dependence and for contributing to the continued entry of drug offenders into the criminal justice system (Saputra, A., Joeda, V. R., & Daman, 2025).

From a conceptual perspective, drug abusers occupy an ambivalent position as both perpetrators and victims, known in victimology as self-victimizing offenders. The distinction between users, addicts, and dealers is crucial in determining the appropriate legal response, as each category has different characteristics and levels of culpability (Warsito, D., & Supriyanto, 2018). A public health approach views drug abusers as individuals experiencing a substance use disorder requiring ongoing treatment, not simply as criminals deserving of punishment. However, in practice, the criminal justice system tends to treat all drug offenders uniformly without considering aspects of dependency and social vulnerability (Silalahi, 2020). The implication of this dual status is the emergence of tension in legal policy between victim protection and law enforcement against perpetrators, ultimately leading to inconsistencies in the application of sanctions and obscuring the goal of rehabilitation as a tool for recovery.

Normatively, the legal policy of rehabilitation has been affirmed in Law Number 35 of 2009 concerning Narcotics, specifically through the provisions of Article 54, which states that drug addicts and victims of drug abuse are required to undergo medical rehabilitation and social rehabilitation. Furthermore, Article 103 authorizes judges to order addicts to undergo rehabilitation both during the trial stage and after a verdict is issued. This provision is reinforced by Article 127, which regulates criminal sanctions for narcotics abusers for personal use while also requiring the consideration of whether the offender can be categorized as an addict or victim of drug abuse and therefore requires rehabilitation (Yudhistira, B., Ismaidar, 2024). The relationship among these provisions does not necessarily constitute a direct conflict of norms in the classical sense, as each provision regulates a different aspect of the legal response to narcotics abuse. However, their combined construction reveals normative ambiguity and structural incoherence regarding the legal position of rehabilitation in relation to criminal punishment. Article 54 formulates rehabilitation as an obligation, whereas Article 103 places rehabilitation within the framework of judicial authority, while Article 127 maintains imprisonment as a possible criminal response to narcotics abuse for personal use. The absence of clear normative criteria governing when rehabilitation must take precedence over criminal punishment creates uncertainty in the application of these provisions and opens broad room for divergent interpretation among law enforcement officials (Kurniawan, I., Afrizal, R., Nelwitis, & Desky, 2024).

The problems with the implementation of mandatory rehabilitation are increasingly evident empirically, where rehabilitation is still far less common than criminalization. Differences in interpretation among law enforcement officials—from investigators and prosecutors to judges—lead to the lack of a uniform standard for determining whether an individual is eligible for rehabilitation or criminalization (Sumaragatha, I. G., Saputra, O.,

Swarnagita, S., Ginastini, N. L., & Wardi, 2021). Structural constraints such as limited rehabilitation facilities, a lack of professional staff, and suboptimal budget support contribute to this situation. Furthermore, coordination between authorized institutions, including law enforcement and health institutions, remains weak, preventing integrated rehabilitation mechanisms (Sadikin, M. A., Dewi, C. I., & Prathama, 2025). In this regard, the integrated assessment mechanism, which should be the primary instrument for determining the status of drug abusers, is often not implemented optimally, and in some cases, it is merely a formality without in-depth analysis of the individual's condition.

Liabilities in the implementation of integrated rehabilitation and assessment have a direct impact on the increasing number of drug inmates in correctional institutions, ultimately leading to overcrowding. This situation not only reflects the failure of legal policy in managing drug abusers but also hampers the function of correctional institutions as a means of rehabilitation (Yuli, Y. L., & Winanti, 2019). The predominance of drug inmates, particularly users, indicates that the criminal justice system has been used disproportionately against groups who should receive rehabilitative interventions. As a result, correctional institutions are unable to provide effective rehabilitation programs, making it difficult to achieve the goal of social reintegration (Alfarisi, S., Ningsih, K. E., Hermanto, M., Akbar, A., Azizah, A. N., Ahmadi, A., & Johansyah, 2026). This situation contributes to high recidivism rates, as individuals who do not receive adequate rehabilitation are more likely to relapse into drug abuse after serving their sentences.

The disharmony between penal and non-penal policies in drug prevention further emphasizes the urgency of reconstructing rehabilitation policies. The imbalance between criminal law and health approaches has created regulatory fragmentation, resulting in a lack of integration in the drug abuse treatment system. Conceptually, drug treatment requires a multidisciplinary approach that combines legal, health, and social aspects. Under these circumstances, strengthening integrated assessment mechanisms is crucial as a basis for objective, individual-needs-based legal decision-making. Therefore, a reconstruction of rehabilitation policy is needed that not only clarifies norms in legislation but also ensures consistent implementation through integrated operational standards. This direction of legal reform is expected to create a more effective and equitable rehabilitation system capable of sustainably reducing recidivism in drug crimes.

Methodology

This study employs a normative juridical research method that focuses on the analysis of written legal norms as the major object of study, by positioning law as a system of norms constructed in legislation and legal doctrine. The approaches used are the statute approach and the conceptual approach, where the statutory approach is carried out by systematically examining various relevant regulations, particularly Law Number 35 of 2009 concerning Narcotics and its implementing regulations, as well as their relationship with other regulations such as Law Number 22 of 2022 concerning Corrections and Law Number 17 of 2023 concerning Health, in order to identify consistency, synchronization, and potential disharmony of norms related to rehabilitation policies for drug abusers. Meanwhile, the conceptual approach involves a thorough examination of legal concepts outlined in existing literature, including rehabilitation, criminal policy, restorative justice,

and the public health model. This analysis aims to develop theoretical arguments that can inform the reconstruction of a more effective and equitable legal policy. The legal materials used include primary legal materials in the form of laws and court decisions, secondary legal materials in the form of books, scientific journals, and previous research results, as well as tertiary legal materials as supporting materials, all of which are analyzed qualitatively using legal interpretation techniques systematically, grammatically, and teleologically in order to produce comprehensive legal prescriptions for the problems studied.

In addition to legal materials, this study refers to selected official statistical data and institutional reports as contextual and supporting materials. These data are not treated as primary empirical findings generated through field research, nor are they used to establish statistical causation between inadequate rehabilitation and recidivism. Instead, official data concerning prison overcrowding, correctional populations, and recidivism are used to illustrate the practical context in which the existing legal framework operates and to identify the policy consequences associated with the continued predominance of imprisonment. The function of these materials is therefore complementary to the normative analysis. They support the identification of legal problems and strengthen the urgency of legal reconstruction, while the principal object of analysis remains the consistency, coherence, and adequacy of legal norms governing rehabilitation for drug abusers.

Result and Discussion

Normative Analysis of Compulsory Rehabilitation Policy for Drug Abusers in the Positive Legal System

A normative analysis of the mandatory rehabilitation policy for drug abusers within Indonesia's positive legal system stems from the construction of Law Number 35 of 2009 regarding Narcotics as a *lex specialis* in combating drug crimes. The law explicitly represents a dualistic approach between punishment and rehabilitation, reflected in its inconsistent normative arrangements. On the one hand, lawmakers acknowledge that drug abusers have a victim dimension requiring recovery, but on the other hand, they maintain a repressive penal approach. The normative construction demonstrates that the politics of drug law in Indonesia remain in a tug-of-war between the health paradigm and the criminalization paradigm, which has implications for the unclear direction of rehabilitation policy in law enforcement practice (Fajar, 2022).

Article 54 of Law Number 35 of 2009 concerning Narcotics explicitly states that drug addicts and victims of drug abuse are required to undergo medical and social rehabilitation. This norm demonstrates the state's obligation to prioritize rehabilitation as a legal response for individuals whose involvement with narcotics is associated with dependency or victimization. Furthermore, Article 103 authorizes judges to decide or order that drug addicts undergo treatment and/or rehabilitation care, both during the examination stage and after the verdict is rendered. The coexistence of these provisions, however, creates an ambiguity concerning the legal relationship between mandatory rehabilitation and judicial authority. Although Article 54 formulates rehabilitation as an obligation, Article 103 does not establish clear operational parameters regarding the circumstances under which

rehabilitation must be imposed or the extent to which judicial authorities may depart from the results of an assessment. Consequently, the issue does not amount to a direct normative conflict, but rather to structural incoherence in the legal design of rehabilitation, which allows substantial differences in interpretation and application among law enforcement officials. In practice, this ambiguity may result in rehabilitation being treated as an alternative rather than as the primary legal response for individuals who substantively meet the criteria as drug addicts or victims of drug abuse (Mintarum, A., Cornelis, V. I., & Marwiyah, 2024).

On the other hand, Article 127 paragraph (1) of Law Number 35 of 2009 concerning Narcotics stipulates that any individual who abuses narcotics for themselves can still be punished with imprisonment, even though paragraphs (2) and (3) require judges to consider whether the person concerned can be proven or qualified as a victim of drug abuse and therefore should undergo rehabilitation. The coexistence of Article 127 with Articles 54 and 103 does not necessarily demonstrate a direct conflict of norms, because criminal punishment and rehabilitation may theoretically operate within the same legal framework and may apply to different categories or circumstances of narcotics offenders. The fundamental problem lies in the absence of a sufficiently clear normative structure that determines the relationship, sequence, and priority between these legal responses. Article 54 establishes rehabilitation as an obligation for drug addicts and victims of drug abuse, while Article 127 maintains imprisonment as a possible response to narcotics abuse for personal use, without providing sufficiently measurable criteria for determining when rehabilitation should prevail over criminal punishment. This normative ambiguity subsequently generates interpretative differences among investigators, public prosecutors, and judges and contributes to inconsistent implementation. Therefore, the principal problem should be understood as one of normative ambiguity and structural incoherence that produces interpretative and implementation problems, rather than as an absolute conflict between the treatment and punishment approaches (Azizah, A., & Dewi, 2023).

When examined within the broader context of the legal system, the rehabilitation policy in Law Number 35 of 2009 concerning Narcotics has not been completely integrated with other legal regimes, such as Law Number 22 of 2022 concerning Corrections. This correctional law emphasizes the development and social reintegration of prisoners, as reflected in the principles of correctional care, which are oriented towards behavioral improvement and social reintegration. However, in practice, drug abusers who should be rehabilitated are instead placed in correctional institutions, thus preventing optimal rehabilitation. It indicates a disharmony between the rehabilitation policy in narcotics law and the correctional system, which is supposed to support the recovery process (Simbolon, N. Y., Barus, R. M., & Hamonangan, 2025).

Furthermore, when linked to Law Number 17 of 2023 concerning Health, drug abuse should be viewed as a health disorder that requires comprehensive medical and social treatment. The health law affirms that everyone has the right to safe, quality, and affordable health services, including those experiencing substance dependence. However, in the practice of drug law enforcement, this health approach has not yet become mainstream,

resulting in drug abusers being treated more often as criminals rather than as individuals in need of treatment. This lack of synchronization indicates that rehabilitation policies have not been systematically integrated into the national legal framework (Ramadhana, W., Farhansyah, R., Nasution, D. K., & Sinaga, 2025).

Based on this overall analysis, it can be concluded that there are fundamental weaknesses in the normative structure of rehabilitation policies for drug abusers, both in terms of the substance of the norms and in terms of synchronization between laws and regulations. The inconsistency between Articles 54, 103, and 127 of Law Number 35 of 2009 concerning Narcotics indicates that rehabilitation has not been firmly and operationally positioned as the primary approach. On the other hand, the disharmony with Law No. 22 of 2022 concerning Corrections and Law No. 17 of 2023 concerning Health demonstrates that rehabilitation policies remain sectorial and unintegrated. Therefore, a reconstruction of legal policies is needed that can clarify norms, limit official discretion, and comprehensively integrate legal and health approaches to achieve an effective and equitable rehabilitation system.

Problems of Implementing Integrated Rehabilitation and Assessment in the Criminal Justice System

The problematic implementation of integrated rehabilitation and assessment within the criminal justice system fundamentally reflects a significant gap between legal norms and law enforcement practices. Normatively, Law Number 35 of 2009 concerning Narcotics provides a fairly clear foundation through Article 54, which requires drug addicts and victims of drug abuse to undergo medical and social rehabilitation, and Article 103, which authorizes judges to determine rehabilitation as a form of treatment. However, in practice, these norms are not consistently applied, as law enforcement officials prefer to use Article 127 paragraph (1), which stipulates the threat of imprisonment for drug abusers. This situation indicates an implementation bias that makes criminal punishment the primary option, even though rehabilitation is recognized as a more appropriate approach.

The disparity between established norms and actual practices is further compounded by varying interpretations among law enforcement officials regarding rehabilitation provisions. During the investigation phase, authorities often neglect to fully leverage integrated assessment mechanisms that could clarify whether an individual is an addict, a victim of drug abuse, or involved in illicit trafficking. Similarly, throughout prosecution and court proceedings, public prosecutors and judges have differing understandings of the rehabilitation obligations outlined in Articles 54 and 103 of Law Number 35 of 2009 concerning Narcotics. These varying interpretations lead to legal uncertainty and inconsistent rulings, resulting in unequal treatment of drug abusers under the law.

The integrated assessment mechanism, which should be a key instrument in determining the treatment of drug abusers, also faces various weaknesses in its implementation. Conceptually, the integrated assessment aims to provide an objective assessment based on medical, psychological, and legal factors to determine whether an individual is eligible for rehabilitation. However, in practice, assessments are often not conducted comprehensively or even neglected, particularly in cases where law enforcement

targets are pressing. Furthermore, the lack of uniform national standard operating procedures means that the quality of assessments is highly dependent on the capacity and integrity of the assessment team. This opens up the possibility of bias, conflicts of interest, and even potential abuse of authority in determining the status of drug abusers.

It is important to distinguish the proposed reconstruction in this study from the integrated assessment mechanisms that already exist within Indonesian narcotics policy and institutional practice. The reconstruction does not propose the creation of an entirely new assessment mechanism. Rather, it addresses the limited legal and institutional function of the existing mechanism. Under the current framework, integrated assessment primarily operates as a procedural instrument for evaluating the medical, psychological, and legal circumstances of an individual suspected of narcotics abuse. Its practical function, however, remains fragmented because the relationship between the assessment result and subsequent decisions at the investigation, prosecution, adjudication, rehabilitation, and correctional stages is not structured within a single and coherent normative framework. As a consequence, assessment results may inform decision-making without necessarily establishing a clear legal pathway that determines how individuals should be classified and treated throughout the criminal justice process.

The novelty of the proposed reconstruction therefore lies in transforming integrated assessment from a predominantly procedural and evaluative mechanism into an integrated normative decision-making framework. Under this model, the assessment process would not merely produce a recommendation concerning an individual's condition, but would function as the starting point for determining the appropriate legal and treatment pathway. The proposed model introduces four interconnected elements: first, a nationally standardized assessment framework containing measurable medical, psychological, social, and legal indicators; second, a classification system capable of distinguishing drug users, addicts, victims of drug abuse, and persons involved in illicit trafficking networks; third, an assessment-based presumption that must be considered throughout the criminal justice process; and fourth, a structured deviation mechanism requiring law enforcement officials to provide explicit and legally reasoned justification when departing from the assessment outcome. Accordingly, the proposed reconstruction does not replace the existing integrated assessment mechanism but restructures its normative position, institutional coordination, and legal consequences.

The impact of the weak implementation of rehabilitation and integrated assessment is evident in the overcrowding of correctional institutions, which are largely filled with drug convicts, particularly drug users. Although Law Number 22 of 2022 concerning Corrections emphasizes the function of rehabilitation and social reintegration through the correctional system, in reality, correctional institutions have become a congested area for drug offenders who should be rehabilitated. Empirically, the high number of drug convicts indicates that rehabilitation policies are ineffective, resulting in the correctional system being unable to perform its functions optimally. This overcrowding not only impacts the quality of rehabilitation but also worsens social and health conditions within prisons.

The relationship between rehabilitation and recidivism requires a more cautious assessment. This study does not claim to establish an empirical or direct causal relationship between inadequate rehabilitation and the recurrence of drug-related offending. Nevertheless, from a legal-policy perspective, the absence of adequate and individualized rehabilitation may leave the underlying conditions associated with drug dependency insufficiently addressed. Imprisonment may temporarily remove an individual from access to narcotics, but it does not necessarily provide sustained medical treatment, psychological intervention, or social reintegration. Official correctional data also demonstrate that recidivism remains a relevant institutional concern within the Indonesian correctional system, although available aggregate data do not by themselves establish a specific causal relationship between rehabilitation outcomes and drug-related recidivism. Therefore, the significance of rehabilitation in this study is not based on the assumption that rehabilitation automatically eliminates recidivism, but on the argument that a treatment-oriented and individualized response is more capable of addressing dependency-related factors than criminal punishment alone. Strengthening rehabilitation should consequently be understood as part of a broader strategy involving treatment, supervision, and social reintegration to reduce the risk of repeated offending.

The primary challenge in implementing integrated rehabilitation and assessment stems not only from insufficient standards but also from a policy design that lacks integration and is not grounded in a health-focused approach. The lack of synchronization between Law Number 35 of 2009 concerning Narcotics and Law Number 17 of 2023 concerning Health shows that health aspects have not become the primary basis for handling drug abusers. Therefore, fundamental improvements are needed in the implementation system, including strengthening the integrated assessment mechanism, standardizing procedures, and improving coordination between institutions, so that rehabilitation policies can be implemented effectively and can reduce the recidivism rate of drug crimes.

Reconstruction of Integrated Assessment-Based Rehabilitation Policy to Suppress Recidivism in Drug Crimes

Reconstructing an integrated assessment-based rehabilitation policy must begin by clarifying the legal function of integrated assessment within the overall system for handling narcotics abusers. The proposed reconstruction does not assume that integrated assessment is absent from the existing Indonesian legal and institutional framework. Rather, the central problem is that the existing assessment mechanism has not been positioned within a coherent normative structure that consistently links the assessment outcome with subsequent decisions regarding investigation, prosecution, adjudication, rehabilitation, and social reintegration. Consequently, the reconstruction proposed in this study seeks to transform integrated assessment from a predominantly procedural and evaluative instrument into an assessment-based decision-making framework that provides a structured legal pathway for determining the appropriate response to each individual case. This requires a restructuring of the normative relationship among Articles 54, 103, and 127 of Law Number 35 of 2009 concerning Narcotics so that the classification produced through

an integrated assessment becomes the starting point for determining whether rehabilitation, criminal prosecution, or another legally appropriate measure should be prioritized. In this model, rehabilitation is strengthened as the primary response for individuals who meet the established criteria as addicts or victims of drug abuse, while criminal prosecution remains applicable to persons whose involvement demonstrates participation in illicit trafficking or other forms of narcotics-related criminal conduct. However, the proposed legal consequence of an integrated assessment should not be understood as establishing an absolute obligation that eliminates the independent authority of judges to assess evidence and determine the appropriate legal consequences in individual cases. The assessment-based framework should instead operate through an assessment-based presumption. For investigators and public prosecutors, the assessment outcome should constitute a mandatory procedural basis that must be considered when determining the appropriate legal pathway. For judges, the assessment should constitute mandatory expert evidence that must be expressly considered in the judicial reasoning. A judge may depart from the assessment outcome where other legally admissible evidence, factual circumstances, or legal considerations justify a different conclusion, provided that such departure is explicitly and rationally explained in the decision.

This model seeks to reconcile the need for consistency in the treatment of narcotics abusers with the principle of judicial independence. Judicial independence does not require judges to disregard professional or expert assessments; rather, it requires that judges remain free from improper external influence in evaluating evidence and applying the law. Accordingly, integrated assessment should function as a specialized evidentiary and decision-support instrument rather than as an external authority that predetermines the judicial outcome. The proposed framework therefore preserves the judge's authority to independently assess the entire body of evidence while requiring that a departure from the assessment outcome be supported by clear and legally reasoned justification. In this manner, the model promotes consistency and accountability without transforming professional assessment into an absolute substitute for judicial judgment.

Strengthening the legal function of integrated assessment requires national standardization through a clear regulatory framework governing both the assessment process and its legal consequences. Unlike the existing mechanism, which primarily focuses on conducting an assessment, the proposed model establishes a standardized connection between assessment, classification, and subsequent legal decision-making. The assessment framework should contain measurable medical, psychological, social, and legal indicators and should be applied consistently across institutions. The assessment process must result in a clearly defined classification that identifies whether an individual is a drug user, an addict, a victim of drug abuse, or a person whose conduct indicates involvement in an illicit trafficking network. This classification should then serve as the basis for determining the appropriate legal pathway. A national regulatory framework may therefore establish uniform procedures concerning the composition of assessment teams, professional qualifications, assessment indicators, documentation standards, and institutional coordination. The purpose of this standardization is not merely to improve the quality of

existing assessments, but to ensure that assessment outcomes have a clear and consistent function within the broader system of investigation, prosecution, adjudication, rehabilitation, and correctional treatment.

To limit arbitrary discretion while preserving the capacity to consider the individual circumstances of each case, the integrated assessment framework should be based on specific and multidimensional criteria. The classification of an individual should not be determined solely by the quantity of narcotics possessed or by a single medical examination. Instead, the assessment should combine medical, psychological, behavioral, social, and legal indicators. The purpose of this multidimensional approach is to distinguish between individuals whose involvement primarily reflects personal use or dependency and those whose conduct demonstrates a substantive role in illicit narcotics distribution. Accordingly, the assessment should produce a structured classification based on the totality of relevant indicators rather than relying on a single formal criterion.

The proposed integrated assessment framework should distinguish between four principal categories, namely drug users, drug addicts, victims of drug abuse, and persons involved in illicit trafficking networks, based on a cumulative evaluation of medical, psychological, social, behavioral, and legal indicators rather than purely formal labels or a single criterion. A drug user may be identified where narcotics are primarily intended for personal consumption and there is no substantial evidence of sale, distribution, financial benefit, or a functional role within a trafficking network. A drug addict may be classified based on a professional medical and psychological assessment demonstrating physical or psychological dependency, taking into account the duration and frequency of use, treatment and rehabilitation history, relapse history, and the need for medical or psychosocial intervention. A victim of drug abuse should be identified through an individualized assessment of vulnerability and victimization, including indicators such as coercion, manipulation, exploitation, social or psychological dependency, environmental influence, and other circumstances indicating that narcotics use cannot be understood solely as a voluntary and autonomous act. Meanwhile, a person involved in an illicit trafficking network should be identified based on substantive indicators of participation in narcotics circulation, including evidence of sale or transfer, repeated transactions, financial benefit, communication or coordination with other actors, possession intended for distribution, or the performance of a functional role within a trafficking network. Where indicators of dependency and trafficking coexist, neither condition should automatically exclude the other; instead, the assessment should examine the nature and extent of the individual's involvement based on the totality of the circumstances in order to determine the most appropriate legal and treatment pathway.

Integrating penal and non-penal approaches is also a crucial aspect of this policy reconstruction, by positioning rehabilitation as part of the criminal justice system, linked to the health system. Synchronization with Law Number 17 of 2023 concerning Health must be realized through the recognition that drug dependence is a health disorder that requires long-term medical treatment. Concrete actions that need to be taken include establishing integrated rehabilitation centers in every region under joint coordination between law

enforcement and health institutions, and ensuring that every drug abuser designated for rehabilitation is immediately transferred to these facilities without unnecessary criminal proceedings.

Harmonization with Law Number 22 of 2022 concerning Corrections is necessary to ensure that correctional institutions no longer become the primary place for drug abusers. Concrete actions that can be implemented include a decarceration policy for drug users through a mandatory diversion mechanism to rehabilitation from the investigation stage, as well as the development of community-based rehabilitation programs as an alternative to correctional facilities. Furthermore, for drug convicts already serving their sentences, an intensive rehabilitation program within correctional facilities should be implemented that is standardized and based on individual assessments, so that the recovery process can continue effectively.

This policy reconstruction must culminate in the formulation of comprehensive and implementable legal prescriptions, including changes to the norms in Law Number 35 of 2009 concerning Narcotics, the establishment of binding derivative regulations, and the strengthening of institutional and supervisory systems. Concrete actions that must be implemented include the establishment of an independent monitoring body for the implementation of integrated assessment and rehabilitation, and the implementation of a data-driven evaluation system to measure the policy's effectiveness in reducing recidivism. Thus, the reconstruction of the integrated assessment-based rehabilitation policy should be not only normative but also operational and sustainable, thereby creating a more just, effective, and recovery-oriented narcotics management system.

Conclusion

Based on the prevailing discussion, it can be concluded that the rehabilitation policy for drug abusers in the Indonesian legal system still faces fundamental problems at both the normative and implementation levels. Although Law Number 35 of 2009 concerning Narcotics stipulates mandatory rehabilitation through Article 54 and provides a legal basis for judicial determination of rehabilitation through Article 103, Article 127 continues to maintain imprisonment as a possible criminal response to narcotics abuse for personal use. The relationship among these provisions does not constitute an absolute or direct conflict of norms; rather, it reflects normative ambiguity and structural incoherence concerning the relationship, priority, and application of rehabilitation and criminal punishment. The absence of clear and measurable parameters for determining when an individual should be directed toward rehabilitation creates broad room for divergent interpretation among law enforcement officials. These interpretative differences are subsequently reflected in inconsistent implementation, weak application of integrated assessments, and the continued dominance of criminal punishment in cases involving individuals who may substantively require rehabilitation. The lack of policy integration with Law Number 17 of 2023 concerning Health and Law Number 22 of 2022 concerning Corrections further exacerbates this situation. Thus, the primary weakness lies not in an irreconcilable conflict between rehabilitation and punishment, but in the inadequate normative design and

operationalization of rehabilitation as a health-oriented and assessment-based legal response.

In this regard, it is recommended that a comprehensive and integrated legal policy be reconstructed, prioritizing rehabilitation as the primary approach in handling drug abusers. A revision of Law Number 35 of 2009 concerning Narcotics is necessary to emphasize the mandatory nature of rehabilitation and strengthen the position of integrated assessment as a binding basis at every stage of the criminal justice process. Furthermore, uniform technical regulations must be developed to ensure consistent implementation across institutions. Coordination between law enforcement agencies and the health sector should also be strengthened, alongside the creation of a transparent and accountable national integrated assessment system. Strategic measures should further include expanding rehabilitation facilities and implementing diversion policies that prioritize rehabilitation over criminal punishment from the earliest stages of case handling. These steps can help reduce prison overcrowding and lower recidivism rates. Through these reforms, Indonesia's drug control system can be transformed into one that is more effective, equitable, and focused on recovery.

References

Alfarisi, S., Ningsih, K. E., Hermanto, M., Akbar, A., Azizah, A. N., Ahmadi, A., & Johansyah, R. A. (2026). Politik Hukum Kebijakan Asesmen Terpadu Terhadap Penyalahguna Narkotika (Studi Kasus Putusan PN Samarinda Nomor 1045/Pid. Sus/2019/PN Smr). *Jurnal Paris Langkis*, *6*(2), 379–394.

Alghifary, R. M. (2023). *Analisa Yuridis Kriminalisasi Terhadap Penyalahguna Narkotika Oleh Aparat Penegak Hukum Dalam Perspektif Hukum Progresif di Indonesia*. Semarang: Universitas Islam Sultan Agung (Indonesia).

Azizah, A., & Dewi, P. E. (2023). Reformulasi Ketentuan Rehabilitasi Bagi Pecandu Narkotika Dalam Dimensi Ius Constituendum. *Jurnal Yusthima*, *3*(2), 101–102.

Fajar, M. (2022). Penerapan Rehabilitasi Medis dan Rehabilitasi Sosial Atas Penyalahgunaan Narkotika Bagi Diri Sendiri. *Jurnal Sosial Teknologi*, *2*(5), 406–417.

Kurniawan, I., Afrizal, R., Nelwitis, & Desky, T. A. (2024). Rehabilitasi sebagai Tindakan Dalam KUHP Nasional dan Implikasinya Terhadap Politik Hukum Pencegahan dan Penanggulangan Penyalahgunaan Narkotika. *Unes Journal of Swara Justisia*, *8*(3), 666–675.

Mintarum, A., Cornelis, V. I., & Marwiyah, S. (2024). Rehabilitasi Bagi Pecandu Narkotika Sebagai Fungsi Asesmen. *Court Review: Jurnal Penelitian Hukum*, *4*(3), 60–93.

Ramadhana, W., Farhansyah, R., Nasution, D. K., & Sinaga, M. C. (2025). Tinjauan Yuridis Hak Rehabilitasi Pada Korban Penyalahgunaan Narkotika (Kajian Undang-Undang Nomor 35 Tahun 2009). *SIBATIK JOURNAL: Jurnal Ilmiah Bidang Sosial, Ekonomi, Budaya, Teknologi, Dan Pendidikan*, *4*(3), 151–160.

Sadikin, M. A., Dewi, C. I., & Prathama, A. A. (2025). Politik Hukum Depenalisasi bagi Penyalahguna Narkotika dalam Perspektif Kemanfaatan Hukum. *Jurnal Preferensi Hukum*, *6*(1), 68–77.

Saputra, A., Joeda, V. R., & Daman, A. (2025). Strategi Penegakan Hukum Terhadap

Peredaran Gelap Narkotika dalam Perspektif KUHP dan UU Narkotika. *Journal of Economic and Management (JEM) Terekam Jejak*, *2*(1), 1–10.

Silalahi, D. H. (2020). *Penanggulangan Tindak Pidana Penyalahgunaan Narkotika*. Jakarta: EnamMedia.

Simbolon, N. Y., Barus, R. M., & Hamonangan, A. (2025). Pemidanaan dan Rehabilitasi Terhadap Pengedar Dan Penyalahguna Narkotika. *Al-Zayn: Jurnal Ilmu Sosial Dan Hukum*, *3*(2), 591–600.

Sumaragatha, I. G., Saputra, O., Swarnagita, S., Ginastini, N. L., & Wardi, H. S. (2021). Politik Hukum Dalam Penanggulangan Pecandu Narkotika. *Journal Kompilasi Hukum*, *6*(2).

Suyono, R. G., Murhaini, S., & Kristanto, K. (2026). *Narkotika Dinamika Hukum, Pencegahan, dan Tantangan Penegakan di Indonesia*. Jambi: PT. Sonpedia Publishing Indonesia.

Warsito, D., & Supriyanto, D. (2018). Sistem Pemidanaan Terhadap Pelaku Tindak Pidana Penyalahguna Narkotika. *Jurnal Daulat Hukum*, *1*(1).

Yudhistira, B., Ismaidar, & S. (2024). Politik Hukum Undang-Undang No 35 Tahun 2009 Tentang Narkotika Dalam Kaitannya dengan Upaya Rehabilitasi Pecandu Narkotika. *Media Hukum Indonesia (MHI)*, *2*(4).

Yuli, Y. L., & Winanti, A. (2019). Upaya Rehabilitasi Terhadap Pecandu Narkotika Dalam Perspektif Hukum Pidana. *ADIL: Jurnal Hukum*, *10*(1).