

Construction of Narcotics Law Against Narcotics Abusers in Perspective Justice

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ABSTRACT

Article 54 of the Narcotic Drugs Act stipulates that drug abuse must undergo medical and social rehabilitation, but in fact, the provisions of Article 54 are not implemented to the maximum. This is evident from the existence of narcotic abusers who became non-rehabilitated addicts but dropped criminal penalties in prison. As a result, the agency is filled with excess capacity. The study aims to examine and analyze the legal constructions in drug law in order to fulfill the sense of justice towards drug abuse. This research is a normative law study exploring legal thinking about the reconstruction of a fair law against drug abuse. To support data accuracy, legislative approaches, conceptual approaches, and comparison approaches are used. In normative legal research, data collection is carried out with library research and supplemented with field research. Data analysis is done qualitatively. The research results show that legal construction provides legal certainty, usefulness, and justice to drug addicts and users through the victim's perspective, access to medical rehabilitation and social rehabilitation, and trust. The general implication of this research is that the humane reconstruction of narcotics laws should be carried out by involving legislators or authorized parties in improving the service system and rehabilitation of drug abusers.

Keywords: Justice, Legal Reconstruction, Narcotics Abusers.

ABSTRAK

Pasal 54 Undang-Undang Narkotika yang menyatakan bahwa penyalahgunaan narkotika wajib menjalani rehabilitasi medis dan sosial, namun pada kenyataannya ketentuan Pasal 54 Undang-Undang Narkotika tidak dilaksanakan dengan maksimal. Hal ini terlihat dari adanya penyalahgunaan narkotika yang menjadi pecandu tidak direhabilitasi namun dijatuhkan sanksi pidana penjara. Akibatnya, lembaga pemsayarakatan dipenuhi bahkan kelebihan kapasitas. Analisis data dilakukan secara kualitatif. Penelitian ini merupakan kajian hukum normatif, menggali pemikiran hukum tentang rekonstruksi hukum yang adil terhadap penyalahgunaan narkotika. Untuk mendukung keakuratan data digunakan pendekatan legislasi, pendekatan konseptual, dan pendekatan perbandingan. Dalam penelitian hukum normatif, pengumpulan data dilakukan dengan penelitian kepustakaan dan dilengkapi dengan penelitian lapangan. Hasil penelitian menunjukkan bahwa konstruksi hukum memberikan kepastian hukum, kemanfaatan, dan keadilan kepada pecandu dan pengguna narkotika melalui sudut pandang korban, akses terhadap rehabilitasi medis dan rehabilitasi sosial, serta kepercayaan. Implikasi umum dari penelitian ini adalah bahwa rekonstruksi undang-undang narkotika yang manusiawi harus dilakukan dengan melibatkan pembentuk undang-undang atau pihak yang berwenang dalam meningkatkan sistem pelayanan dan rehabilitasi penyalahguna narkotika.

Kata Kunci: Keadilan, Penyalahguna Narkotika, Rekonstruksi Hukum

INTRODUCTION

Narcotics crimes, especially narcotics trafficking crimes, are transnational crimes carried out in an organized manner. Narcotics and illegal drug crimes are carried out using high-modus operandi and also using sophisticated technology. The authorities are expected to be able to

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overcome this in order to improve morality and human resources in Indonesia as the nation's next generation. (Anang Iskandar, 2019). Enforcement of Law Number 35 of 2009 concerning Narcotics (here in after abbreviated to the Narcotics Law) is still oriented towards punishment. This can be seen from the number of inmates in correctional institutions in the last 5 (five) years (2019-2023): as many as 1,338,797 (one million three hundred thirty-eight thousand seven hundred ninety-seven), there are 664,743 (six hundred sixty-four thousand seven hundred and forty-three) prison inmates with narcotics cases 49.6%-, or forty-nine-point six percent (Data from the Ministry of Law and Human Rights, August 2023).

The Narcotics Law is used to determine whether narcotics users are categorized as victims or perpetrators; narcotics "dealers" in legal terminology are categorized as perpetrators (dader); however, "users" can be categorized as "perpetrator and/or victim." According to Sugiarta I in Putu Amalia et al. As victims, narcotics "users" are citizens whose rights must be protected and respected both in the legal process and in health and social dimensions (Putu Amalika, et al., 2023). Rehabilitation for narcotics abuse is based on Article 54 of the Narcotics Law and various other laws and regulations that regulate rehabilitation. Rehabilitation is important because drug abuse will have a negative impact on health, such as hepatitis, infections, heart disease, blood vessel disorders in pregnancy, and other health problems up to death (Law No. 35 of 2009 on Narcotic Drugs).

In reality, the provisions of Article 54 of the Narcotics Law are not implemented optimally; this can be seen from the fact that there are still many narcotics abusers who become addicts who are not rehabilitated but are sentenced to imprisonment. As a result, correctional institutions are filled with even excess capacity. Ideally, those who are sentenced to prison are drug dealers, not addicts, because addicts should be positioned as victims who need help to be rehabilitated.

Article 7 of the Narcotics Law states that "Narcotics can only be used for the purposes of health services and/or the development of science and technology." However, many people in the world, especially in Indonesia, abuse its use; even the distribution of narcotics is very massive. When viewed from a juridical aspect, the circulation of narcotics in Indonesia is legitimate, namely as medicines for medical purposes. The Narcotics Law only prohibits the use of narcotics without permission from the law in question.

The prison system, which places great emphasis on the elements of revenge and deterrence accompanied by the institution of a "prison house," is gradually being seen as a system and means that are not in line with the concept of rehabilitation and social reintegration, so that prisoners realize their mistakes and no longer wish to commit crimes. criminal and return to being responsible citizens for themselves, their families, and their environment (Intan Permata Sari, 2019).

The criminal system should be based on a criminal philosophy that is in accordance with the philosophy of society and the nation. For the Indonesian people and nation, which are based on the Pancasila philosophy, the punishment system should also be based on Pancasila values. Rehabilitation for narcotics abusers who view abusers as victims and have the right to medical and social rehabilitation in accordance with the implementation of the second principle of Pancasila, namely just and civilized humanity. The humanity in question is part of the state's responsibility toward its citizens who victims of narcotics abuse are, which cannot be separated from the weakness of the state/government in ensuring society from the illicit trafficking of narcotics.

Imposing prison sentences for drug addicts and victims can create new problems in the future. Facts on the ground show that drug addicts and victims are undergoing legal proceedings and being sentenced to prison terms (Republika, *Criminalization of Drug Addicts Can Give rise to New Problems*, <https://www.republika.co.id/>, accessed July 22, 2022). Why are many prison inmates who, in fact, are drug abusers always punished and very rarely given the opportunity to be rehabilitated?

The absence of provisions that provide boundaries between drug abusers and dealers has resulted in the failure to achieve legal objectives for narcotics abusers, who in fact are victims of

narcotics crimes themselves. Therefore, a study is needed that can reconstruct the Narcotics Law in order to find a legal construction that is fair to narcotics abusers both in material law and formal (procedural) law towards narcotics abusers (See Chapter XV Criminal Provisions, Articles 111 to Article 151 of Law Number 35 of 2009 concerning Narcotics).

The criminal system should be based on a criminal philosophy that is in accordance with the philosophy of society and the nation. For the Indonesian people and nation, which are based on the Pancasila philosophy, the punishment system should also be based on Pancasila values. Rehabilitation of drug users who regard the drug users as victims and are entitled to medical and social rehabilitation in accordance with the implementation of the second Pancasila, which is a fair and civilized humanity.

This condition shows that the criminal act of narcotics abuse must receive serious attention, especially in its criminal sanctions, so that later the implementation of criminal sanctions aimed at rehabilitating, coaching, and guiding prisoners can really run effectively so that the narcotics problem can be resolved immediately. In this regard, it is very important that there are strict restrictions between abusers and dealers with the aim of providing legal certainty, both in terms of legal rules and the application of sanctions for abusers and dealers who so far have not demonstrated justice and legal certainty because the legal construction is inadequate. Therefore, it is interesting to research the reconstruction of laws that are fair to narcotics abusers.

Based on the things that have been stated in the background, the formulation of the problem that will be discussed in this research is as follows: What is the ideal legal construction in the Narcotics Law that fulfills a sense of justice for narcotics abusers?

RESEARCH METHOD

The method utilized is a normative method. This type of research is sometimes referred to as doctrinal legal research. Normative legal research is a type of legal research where secondary data or library items are examined (Nitaria Angkasa, et al., Soerjono Soekanto & Sri Mamudji, 2019). Secondary data sources consist of three legal materials, namely: (1) Primary legal materials are binding legal materials in the form of the constitution and statutory regulations relating to narcotics crimes, (2) Secondary legal materials are legal materials that provide explanations of primary legal materials, such as books written by criminal law experts and, (3) Tertiary legal materials are legal materials that provide instructions and explanations for primary and secondary legal materials. Field data as supporting data was obtained from interviews with 3 criminal law experts, 2 psychologists, 5 investigators, and 30 narcotics abusers as sources.

Then, the data is collected completely; the data is processed, organized, and grouped into classifications according to the main problem and discussion (Mukti Fajar and Yulianto Acmad, 2019). Data analysis is the study and decomposition of data so that the data can be given meaning and meaning that is useful in solving problems in this research. The secondary data obtained is then arranged sequentially and systematically and then analyzed using qualitative methods with the aim of providing verbal descriptions of the findings and therefore prioritizing the quality of the data and not quantity (Salim HS and Erlies Septiana Nurbani, 2021).

RESULTS AND DISCUSSION

Legal Study of the Purpose of Law Number 35 of 2009 concerning Narcotics

Narcotic crime has become a problem for the Indonesian nation and the nations of the world. Drug abuse can lead to physical, mental, emotional, and attitude damage in society. Structured and massive trafficking of narcotic drugs in Indonesia has become a crucial issue that must receive attention and be addressed by the government, as it has the potential to systematically destroy the

moral and physical lives of the nation and the State of Indonesia. The constitutional guarantees of the right of Indonesian citizens to live a just, peaceful, and inherent life constitute a prerequisite for the establishment of a just and prosperous rule of law (welfare state). In addition to guaranteeing a peaceful life, the state is obliged to seek a good and healthy home and environment. A good and healthy living environment is not only realized in the integrity and order of the natural living environment but also includes a sense of safety, order, comfort, and peace.

It is in accordance with the provisions of Article 28H paragraph 1 of the Basic Law of the State of the Republic of Indonesia of 1945, which state that "everyone has the right to a peaceful birth and inner life, to a home, to a good and healthy living environment, and to access to health services." Abuse of narcotics and other illegal drugs (narcotics) is a crime that can disrupt the stability of security and public order and can even disrupt global security, so the crime of narcotics abuse is categorized as a transnational crime. Transnational crime describes cross-border crime that affects globally or at least more than one country as a result of crimes committed by individuals, international organized crime organizations, governments, public institutions, multinational and transnational corporations, non-governmental organizations, etc.

The complexity of the development of transnational crime is supported by globalization, migration, information technology development, transport development, and relations between parties without clear boundaries (Vanessa Mathilde Harum, and Nurul Syarifah, 2023). In general, narcotics trafficking has become a very promising business opportunity for some people and provides quite fantastic profits. So as a result, the circulation of narcotics causes mental disorders for narcotics users, who in fact are the nation's next generation of young people.

Narcotics trafficking crimes and narcotics abuse crimes are included in the category of "organized crime" and are serious or dangerous criminal acts. Narcotics distribution often takes the form of a syndicate or network, so that narcotics distribution cannot be carried out by a single perpetrator. This is what causes this crime to be called an organized crime, starting from upstream to downstream from those who commit the crime, namely from production, distributors, intermediaries, and up to the user or users of the goods. For users, this shows a shift in the criminal paradigm from the absolute school as contained in the neoclassical school. This change and paradigm shift was then realized in Article 54 of the Narcotics Law, which states that "narcotics addicts and victims of narcotics abuse are obliged to undergo medical rehabilitation and social rehabilitation (Bambang Santoso, 2021).

Indonesia is very vulnerable to narcotics trafficking because it is influenced by geographical, geopolitical, demographic, and socio-economic conditions, information flows and globalization, changes in social modernization, and changes in lifestyle. Geographically, Indonesia is the largest archipelagic country in the world. This open maritime border makes Indonesia vulnerable to narcotic smuggling. Geographically, Indonesia is located among countries that grow and produce narcotic raw materials, one of which is the opium plant (Antonim, 2024).

The increase in narcotics circulation in Indonesia has been directly proportional to the increase in the number of illegal narcotics abusers or users. Illegal narcotics abuse in several countries, including Indonesia, has shown a very sharp increase in numbers and has penetrated all levels, so that it has reached a stage that is truly worrying for the future of the Indonesian nation (Rahmat Nur Hidayat, 2021).

The negative impact of narcotics abuse, especially by Indonesia's young generation. As an anticipatory, curative, and repressive step towards both perpetrators, victims, and society at large,

the Government of the Republic of Indonesia has passed Law Number 35 of 2009 concerning Narcotics on October 12, 2009. One of the objectives of passing this Narcotics Law is the prevention, eradication, abuse, and illicit trafficking of narcotics. As regulated in Article 4 letter a of the Narcotics Law, which requires the state to guarantee the availability of narcotics for the purposes of health services and/or knowledge and technology. In the field of medicine, Patients may get limited dosages of class II and class III narcotics in specific preparations from doctors for medical purposes and based on medical considerations. The patient can possess, store, and/or narcotics for himself. The patient must have valid proof that the narcotics owned, stored, and/or carried for use were legally obtained (Rahmat Nur Hidayat, 2021).

Likewise, with the state's obligation to prevent, protect, and save the Indonesian people from narcotics abuse as regulated in Article 4 letter b of the narcotics law, the state, through the power tools at its disposal, is obliged to carry out efforts to prevent, protect, and save the Indonesian people from narcotics abusers through strategic steps and programs oriented towards achieving the goals mentioned above.

Narcotics abuse is a criminal act that has its own specificities compared to criminal acts in general. The special characteristics of drug crimes mean that every narcotics case must receive integrated response efforts. Efforts to overcome narcotics crimes can be carried out preventively as well as repressively. Eradicating the illicit trafficking of narcotics and narcotic precursors as regulated in Article 4 letter c of the Narcotics Law is carried out through a law enforcement process.

Media and social rehabilitation guarantees for narcotics abusers and addicts, as confirmed in Article 4 letter D of the narcotics law, oblige the state to make rehabilitation efforts for victims of narcotics abusers and addicts. This means that the state must prioritize preventive and curative efforts in addition to repressive efforts through strict law enforcement. Rehabilitation is a comprehensive recovery process from drug abuse addiction. Rehabilitation activities include two things, namely group therapy and guidance on rehabilitation service techniques.

The orientation of the passing of the narcotics law is to save narcotics abusers, for example, by providing facilities and opportunities for access to rehabilitation for victims of narcotics abuse. Expressly and implicitly, the spirit is to save narcotics abusers. This narcotics law aims to guarantee the availability of narcotics for the purposes of health services and/or the development of science and technology to prevent, protect, and save the Indonesian nation from narcotics abuse, eradicating trafficking.

The politics of criminal law mean how the state seeks to create and formulate good criminal legislation for the present and the future. State representation in law enforcement politics is represented by various law enforcement officials such as police, prosecutors, judges, and correctional institutions (Mardjono Reksodiputro, 2019). Meanwhile, if seen from the criminal political aspect, it means a policy to tackle crime with criminal law. The above understanding is in accordance with Marc Ancel's opinion that criminal policy is both a science and an art, with the ultimate practical goal of facilitating the better formulation of positive legal rules and offering direction to lawmakers, courts that apply the law, and those who carry out court decisions (Barda Nawawi Arief, 2019).

According to Gustav Radbruch in Agustiana, the view is that law is an element of culture, so like other cultural elements, law embodies one of the values in concrete human life. Whatever this value is, it is the value of justice. Law only means law if the law is an embodiment of justice or at least an effort in a better direction to achieve the value of justice. This legal understanding is a

benchmark for the fairness or unfairness of the legal system formed by the institution that has been given authority. When a legal product contains the value of justice, whether a legal regulation is fair or not, then it is returned to the competence and capability of the respective institution that implements it (Agustiana, 2022).

Criminal law policy is identical to penal reform in the narrow sense, because as a system, law consists of culture, structure and substantive law (Izzy Al Kautsar & Danang Wahyu Muhammad, 2022). Current medical rehabilitation and social rehabilitation efforts are not ideal and do not meet community expectations. One indicator is that there are still many narcotics abusers who end up in prison.

Law Enforcement Against Narcotics Abusers

The issue of fair law enforcement has not been fully implemented in Indonesia, despite its various obstacles and reasons. Still, low public confidence in the law enforcement process in Indonesia is based more on the low level of satisfaction and authority with the law-enforcement apparatus in positive law enforcement in Indonesia (Nurindria Naharista Vidyapramatya, 2020). The ideal law is one that is fair to everyone, a law that serves the interests of justice, which creates order and order, which does not humiliate the degree of humanity, and which corrects and opens up opportunities for self-improvement.

Law enforcement is a process of realizing legal desires in society into reality. What is called legal desire here is nothing other than the thoughts and ideas of the law-making body that are formulated in the legal regulations. The formulation of the lawmaker's thoughts as outlined in legal regulations will also determine how law enforcement can be carried out and accepted by society. Law enforcement functions as the protection of human interests. By looking at the law in this way, law enforcement does not just enforce the formal mechanisms of a legal rule but also seeks to realize the priority values contained in the law. In order for human interests to be protected, the law must be implemented so that it can create a just and prosperous society (Satjipto Raharjo, 2022).

Every country in the globe is involved in the fight to eradicate drug-related crime, yet the amount of illegal drug trafficking is rising and becoming more widespread. Narcotics offenses are unique crimes, as evidenced by multiple indicators. This makes extreme punishment imperative for the kind of extraordinary crime that exists today and is known as transnational crime, occurring in all countries of the world (Kadarmanta, 2023). The United Nations Convention Against the Delict Traffic in Narcotics, Drugs, and Psychotropic Substances was ratified by most UN members in 1988 since this societal illness has spread to every nation in the world. The 1988 Convention seeks to outlaw the trafficking in illegal drugs and psychoactive substances.

A narcotics crime that has a broad and systematic impact (extraordinary crime) is a crime that requires extra handling and requires a separate approach to overcome it so that the application of legal norms can live in society or resolve existing problems. In practice, national criminal law mechanisms in a country often have not been able to provide solutions or fair solutions to acts that fall into the category of extraordinary crimes, including Indonesia. Situations like this occur because the appropriate legal instruments are not available to anticipate acts that qualify as extraordinary crimes in the national legal system.

Law enforcement is the process of making efforts to enforce legal norms in real terms as guidelines for human behavior in social life. The aim of law enforcement itself is to improve order

and legal certainty in society (Walton Renaldi, 2023). The definition is that it is a crime with a significant and multifaceted influence on social, cultural, political, and economic facets, as well as a potentially detrimental effect. Because of this, extreme punishment is absolutely required for the kind of extraordinary crime known as transnational crime that is currently taking place in all countries of the world (Kadarmanta, 2023).

Similar to this, psychotropics are non-narcotic, naturally occurring or artificially manufactured compounds or medications that have psychoactive qualities due to their selective action on the central nervous system, which results in distinctive alterations in mental activity. Then Narcotics are substances or medications, either synthetic or semi-synthetic, derived from plants or non-plants that can diminish or eliminate pain, alter consciousness, cause taste loss, or cause dependence. They are categorized into classes as related to this law. Narcotics are thought to have a bad effect on users and lead them to commit crimes, which is why drug usage is frequently linked to criminal activity.

The reason for this is that crime will lead to social instability overall. So, numerous attempts are always made to combat this crime, despite the fact that it is actually quite impossible to entirely abolish crime because, in general, crime will always expand along with the development of civilization (Wirjono Projodikoro, 2022). When viewed from a juridical aspect, Narcotics are lawfully circulated in Indonesia; the Narcotics Law forbids using them without a valid legal prescription. Very often the use of narcotics is not for the purposes of medicine and science when seen from such circumstances at an empirical level. People often use large doses of narcotics so that they can become intoxicating and addictive. Therefore, narcotics crime has become a promising and rapidly growing business opportunity.

What is meant by the presence of law is anything that gives rise to rules that have coercive power and influence; that is, if they are violated, they will receive strict and real sanctions (Rahman Syamsuddin, 2019). Another source states that law is a set of norms or rules that function to regulate human behavior with the aim of ensuring peace and order in society. Law has a universal reach because, with law, you can find several different theories for each individual (Badruzzaman, 2020).

For example, when several judges hear about a murder case, many of the judges will have different thoughts (stabbed, burned, thrown into a river, etc.) before seeing the file about the murder case. This means that the law has a very wide reach for each person, depending on how that person responds to the law they face. Law enforcement personnel have been actively involved in the prosecution of drug-related crimes, and they have been the subject of numerous court rulings. Although the increased use of law enforcement is supposed to operate as a disincentive to the growth in drug distribution and trafficking, in practice, the more aggressively it is enforced, the more drugs will be circulated and trafficked illegally.

In dealing with crime, two strategies are required: the use of criminal sanctions or penalties and the use of non-penal strategies, such as law enforcement without the use of criminal sanctions (penal). The aim of law enforcement is to guarantee that individuals follow the law. When employing non-penal tactics, law enforcement has internalization goals and objectives. The Indonesian government's political and legal endeavor to combat drug-related offenses is evidenced by the Narcotics Law. The creation of the drugs law is intended to address drug misuse and illicit trafficking through the application of criminal or penal law. This is a medium, which is one of the limits in the use of law as a means of regulating or changing behavior. To be able to identify problems related to the use of law as a means of regulating behavior (Fithriatus Shalihah, 2017).

Functions and Roles of Investigators at the National Narcotics Agency (hereinafter referred to as BNN). According to the Narcotics Law, prevention and eradication of narcotics abuse and illicit

trafficking of narcotics and narcotic precursors is very necessary, so the Narcotics Law requires the formation of BNN. BNN is a non-ministerial government agency located under the President and is responsible to the President. BNN is domiciled in the national capital with a working area covering the entire territory of the Republic of Indonesia and has representatives in provincial and district/city areas. The duties and authority of BNN can be seen in Article 70 of the Narcotics Law. The investigation referred to in Article 1 point 2 of the Criminal Procedure Code explains in accordance with the meaning of opsporing or interrogation.

According to de Pinto, investigating (opsporing) means a preliminary examination by officials who have been appointed for this purpose by law as soon as they hear news that is merely reasonable that there has been a violation of the law. The BNN's authority in the Narcotics Law does not guarantee that complete eradication of narcotics crimes in Indonesia can be carried out. This is because the modus operandi played by the perpetrators of narcotics crimes is so massive, systematic, and structured. For this reason, prevention and eradication of narcotics abuse and illicit trafficking of narcotics and narcotic precursors must receive active participation from all components of the nation, especially society.

Based on an interview with the Deputy for Eradication of the Indonesian BNN (Irjen. Pol. I Wayan Sugiri, 2024) regarding law enforcement against victims of narcotics abuse, namely by means or rehabilitation mechanisms that meet the principles of legality and legal certainty. According to him, narcotics abusers will be assessed first by the Integrated Assessment Team owned by BNN, and then from the results of this assessment there will be recommendations for narcotics abusers to be eligible for rehabilitation or proceed to legal proceedings with the parameters of the Supreme Court Circular regarding limits on evidence. brought by the perpetrator and the extent of the perpetrator's involvement in the drug network.

One way that concerns about how drug abusers are handled in Indonesia are being implemented is through the integrated assessment mechanism. The Narcotics Law compares abusers of narcotics to "people standing on two legs." The legal dimension makes up one leg, and the health dimension makes up the other. From a health perspective, drug abusers are compared to addicts with chronic illnesses who need to be treated through rehabilitation; from a legal perspective, drug abusers are criminals who need to face consequences for breaking the Narcotics Law. The Narcotics Law combines these two strategies in cases of abusers by implementing rehabilitation punishments.

An important role is played by an integrated assessment mechanism that combines the findings of analysis from the medical and legal teams to determine whether suspects in drug-related crimes are classified as drug abusers or dealers. This mechanism serves as a screening process for classifying the status of drug abusers and/or dealers so that they can be thoroughly examined as part of the criminal law policy process.

Similarly, considering the position of a suspect or defendant who abuses drugs as a sick person or as a criminal and incorporating a rehabilitation process into the trial can be considered by the judge when making decisions about the case. A prison sentence can serve as a deterrent and end the crime, or a rehabilitation sentence can help the drug user overcome their addiction.

Formulation of Material Offenses for Narcotics Abusers

Narcotics abuse is a criminal offense regulated in the Narcotics Law. Article 1 point 1 of the narcotics law states that narcotics are substances or drugs derived from plants or non-plants, whether synthetic or semi-synthetic, which can cause a decrease or change in consciousness, loss of taste, reduce or eliminate pain, and can cause dependence. Which are differentiated into groups as attached in this law. Medically, the use of narcotics as medicine, as long as its use is in accordance with statutory (legal) provisions, can be justified. However, what is prohibited is the use of narcotics without authorization or against the law.

Narcotics crimes in this area have become a phenomenon whose impact is very disturbing to the community. Because criminal acts of narcotics abuse are not only from certain groups of society but can occur from upper classes or even poor people and penetrate among children for various reasons. Narcotics abuse by a person can be interpreted as using narcotics not properly; in this case, it is, of course, outside the supervision of a doctor. The occurrence of narcotics abuse in society certainly greatly affects the peace and comfort of the community itself. The legal impact of increasing narcotics abuse in society has an effect on peace and increasing crime rates in society, an influence on the emergence of crime in society, and so on. According to Mardani, among the elements that influence the usage of psychoactive and narcotic drugs are:

- a) psychopathic and antisocial personality traits.
- b) a mental illness that causes you to experience depression or disappointment frequently.
- c) family dynamics, such as parental behavior, family integrity, and the bond between parents and children.
- d) peer relationships
- e) Narcotics and psychotropic substances are easily obtained and available in both official and unofficial markets. (Mardani, 2018)

Narcotics abuse in a state of dependence on narcotics both physically and psychologically is known as a narcotics addict. Meanwhile, acts of unlawful misuse of narcotics are regulated in Article 1 number 15 of the Narcotics Law, which states that "A drug abuser is a person who uses narcotics without rights or against the law." Meanwhile, the definition of a Narcotics Addict, according to Article 1 point (13), is a person who uses or abuses Narcotics and is in a state of dependence on Narcotics both physically and psychologically.

There are several provisions in the Narcotic Drugs Act that regulate drug abuse, namely Section 111 of the Drug Act and Section 137 of the Drug Act. Some of those provisions are interesting to examine, including Section 112 of the Narcotic Drugs Act and 114 of the Drugs Act. Though these two chapters seem almost the same, there are differences. Article 112(1) and (2) of the Narcotic Drugs Act state that:

- (1) Any person who, without any right or against the law, owns, holds, possesses, or supplies Class I Narcotics, not plants, shall be punished with imprisonment for a minimum of 4 years and a maximum of twelve years and with a criminal fine of at least IDR 800,000,000.00 and a maximum of IDR 8,000,000,000.00.
- (2) In the case of the possession, holding, possession, or provision of Category I narcotics other than plants, as referred to in paragraph (1), if the weight exceeds 5 grams, the offender shall be punished with life imprisonment or with a penalty of no less than five years and no more than twenty years and a maximum penalty as specified in subsection (1) plus one-third.

Article 114 (1) and (2) of the Narcotic Drugs Act states that:

- (1) Any person who, without any right or against the law, offers to sell, sell, buy, receive, or be an intermediary in the sale of, exchange, or surrender of Class I Narcotic Drugs shall be punishable by life imprisonment or by a criminal punishment of a minimum of five years and a maximum of twenty years, and a criminal fine of at least IDR 1,000,000,000.00 and maximum of IDR 10,000,000,000.00.
- (2) In the case of the act of offering to sell, sell, buy, be an intermediary in the sale, exchange, hand over, or receive of Class I Narcotics as referred to in paragraph (1), which in the form of plants weighing more than one kilogram or more than five tree stems or in the non-plants of five grams, the offender is punished with the crime of death, imprisonment for life, or criminal imprisonment for a minimum of six years and a maximum of twenty years and the penalty of a maximum penalty as mentioned in paragraph (1), plus a third.

The provisions contained in Article 112 of the Narcotic Drugs Act differ from those stipulated in Article 114 of the Drug Act, both in terms of the status or acts of the defendant and the threat of his prosecution. Article 114 of the Narcotic Drugs Act regulates the acts committed by the accused, such as offering to sell or buy narcotic drugs and being an intermediary in selling, exchanging, or handing over or giving narcotics. Article 112 of the Narcotic Drugs Act provides for a criminal penalty of a minimum of four years and a maximum of twelve years, as well as a fine of at least IDR 800,000,000.00 and a maximum of IDR 8.000.000.000,00 for those who, without the right or against the law, possess, hold, or provide Class I Narcotics, not plants.

For the perpetrators who possess, hold or supply Class I narcotic drugs other than plants weighing more than 5 grams, the criminal punishment is life imprisonment or a criminal sentence of no less than five years and no more than 20 years and a maximum fine of around IDR 1.066.000.000.00. Meanwhile, the perpetrators who violate the provisions of Article 114 of the Narcotic Drugs Act are threatened with a criminal sentence of a minimum of five years and a maximum of twenty years, as well as a fine of at least IDR 1.000.000.000.00 and a maximum of IDR 10.000.000.000.00 for those who have no right or against the law right to offer to sell, sell, buy, receive, be an intermediary in the sale, exchange, or surrender of Class I Narcotics.

For the offender who commits the offense of offering to sell, sell, buy, receive, be an intermediary in the sale, exchange, or hand over a Category I narcotic with a weight exceeding 5 grams or 1 kilogram for a plant equivalent to five rods, punishable by a death penalty, life imprisonment, or a criminal penalty of imprisonment for a minimum of six years and for a maximum of twenty years and a criminal fine of approximately IDR 13.333.000.000,00. Sections 112 and 114 of the Narcotic Drugs Act both regulate the abuse of class I narcotics weighing less than 5 grams for non-plant drugs.

Reconstruction of Criminal Procedure Law Against Fair Drug Abuse

Law is an instrument of state social control; it is a system of regulations and social procedures designed to promote positive behavior and discourage negative behavior. Conversely, social control refers to an extensive system of laws and procedures that have legal implications for how people behave; broad laws prohibiting criminal activity are one type of social control. The only method to comprehend the legal system is to examine legal behavior, which is governed by regulations imposed by governmental bodies or duly appointed individuals. When an individual acts in a particular manner due to legal orders, government actions, official actions, or involvement in the legal system (Yusri Munaf, 2018).

The source of Indonesian law is based on Pancasila and the 1945 Constitution of the Republic of Indonesia by upholding the nation's moral, ethical, moral, and noble personality values, having faith and devotion to God Almighty, as well as respecting diversity in the life of society, nation, and state and protecting the dignity of every citizen. The essence of justice is an obligation that must be fulfilled for a right to human life, as an incarnation of human essence. In its implementation, the cultivation of Pancasila as a paradigm for national legal development should be developed horizontally by involving all national components. Efforts to achieve a law that contains the values of justice and social welfare must be based on the Indonesian family values contained in the principles of Pancasila (Latif Yudi, 2020).

Social Justice for All Indonesian People is something that can be interpreted as by the people, from the people, for the people. In a position of equality and dignity, relations will be created between nations that respect each other and respect each other. So it can be said that the principle of the usefulness of Pancasila justice is that it is fair in itself and does not have to equalize one person to another, depending on the position, status, and needs that we need, and returning to the people, justice will be able to be implemented well in accordance with the principles stated in 5th Pancasila, which says social justice for all Indonesian people (Abdull Syaban, 2023).

The high level of narcotics abuse is contributed by narcotics syndicates. The police, as the front guard in the fight against narcotics in Indonesia, continue to prove their capabilities. Throughout 2020, the police tried to show their achievements through various actions in uncovering cases of abuse and dismantling narcotics sales networks. The circulation of narcotics using sophisticated techniques has spread throughout Indonesia. It can be said that there has been a change in the modus operandi of the syndicates, where specific types of psychotropics are no longer imported but the dealers prefer to set up factories to produce their own. The procurement of raw materials, manufacturing, and recruitment of people in the division of tasks in producing narcotics are carried out well. This can be said when looking at the trend of cases of narcotics factories that continue to emerge (Nugroho, B., et al., 2019). In the Narcotics Law, what is meant by narcotics is a substance or drug derived from plants or non-plants, either synthetic or semi-synthetic, which can cause a decrease or change in consciousness, loss of taste, reduce or eliminate pain, and can cause dependence (Putra, F. S, 2019).

The important role of the police in their task of eradicating narcotics-related crimes must be well supported even though the number of cases continues to increase. The disclosure of these cases could be an indicator of increased police performance in hunting down narcotics trafficking syndicates, but on the other hand, they could face this trafficking. So, even though Indonesia has a Narcotics law. However, the problem of criminal acts cannot yet be resolved completely and perfectly.

Narcotics abuse in Indonesia has reached a very worrying level; facts on the ground show that 50% (fifty percent) of prison inmates are caused by narcotics. Crime news in the mass media, both print and electronic, is filled with news about narcotic abuse. Narcotics victims extend to all levels of society, from students, artists, traders, lift drivers, housewives, street children, workers, and so on. Narcotics are easily obtained, can even be made by yourself, and are difficult to detect. Illegal narcotics factories have also been found in Indonesia. Narcotics crime is an international crime, organized crime, has a wide network, has large financial support, and uses sophisticated technology. Narcotics have a very broad negative impact, both economically, socially, culturally, psychologically, physically, in defense and security, and so on. If narcotics abuse is not properly anticipated, it will damage this nation and state. Therefore, good cooperation is needed from all components of the nation to overcome narcotic abuse (Burlian, P., 2016).

The problem of drug abuse in Indonesia is now a matter of great concern. The situation is due to several things, among them the awareness of Indonesian people about their disobedience to religious teachings, norms, and rules of law. The situation is exacerbated by the rapid influence of globalization, which brings a very rapid flow of information and cultural transformation, including drug abuse (Sirait, E., & Rafiqi, 2018). Indonesian society is currently facing a very worrying situation as a result of the black circulation of narcotics and illicit drug use in the middle of society's lives (Hasibuan, A., 2018). Narcotics are divided into several groups, including morphine, cocaine, heroin, marijuana, cannabis, coplo, and the like. The danger of abuse is not confined only to the drug addict but can have far-reaching consequences, namely, disruption of the order of life of a society that can affect the disaster of the collapse of a nation and the world (Wahyudi, W., 2019). The Law No. 35 of 2009 on Narcotic Drugs by the Government of the Republic of Indonesia is a policy to control, monitor, and sanction the use and circulation of narcotic drugs and sanction their abuse (Muslikan, M., & Taufiq, M., 2019).

The articles in Law Number 35 of 2009 are an effort to provide criminal sanctions for users and distributors who violate statutory provisions by prioritizing order and comfort in human life. Users who are addicted to narcotics undergo rehabilitation to be free from narcotic addiction so that the crime rate in society can be controlled (Hendra, M., 2019). As a result of globalization, drug

trafficking is now a large-scale network with organizational strength, financial resources, and the ability to conduct cross-border trade. This type of crime is known as "transnational organized crime," and it poses a serious threat to Indonesian citizens' ability to live free from drug use.

CONCLUSION

A legal construction that provides legal certainty, benefits, and justice for narcotics addicts and narcotics abusers through the perspective of a victim by prioritizing access to medical rehabilitation and social rehabilitation as mandated and aimed at by the Narcotics Law is an ideal and aspired legal construction. Furthermore, the ideal legal construction that we want to build is to provide and guarantee human rights for narcotics addicts and narcotics abusers both in terms of regulations and policies. The Government and the Indonesian House of Representatives need to revise Law Number 35 of 2009 concerning Narcotics, especially to clarify the regulations or norms for victims of narcotics abuse and regulations regarding medical rehabilitation and social rehabilitation that are synchronous and harmonious between the norms in the Narcotics Law.

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