

Conflict of Authority in Determining Rehabilitation for Narcotics Addicts Between the Integrated Assessment Team and the District Attorney's Office in Padangsidempuan City

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Abstract

The enactment of Law Number 1 of 2023 concerning the Criminal Code brings a paradigm shift in the Indonesian criminal law system, particularly regarding the policy of handling drug abusers which was previously regulated repressively in Law Number 35 of 2009 concerning Narcotics. The transition period towards the full implementation of the National Criminal Code in 2026 raises the issue of synchronizing norms related to rehabilitation for drug abusers. This study aims to analyze the synchronization of drug abuse rehabilitation regulations between the Narcotics Law and the National Criminal Code, as well as examine the implementation of the rehabilitative approach from a restorative justice perspective during the transition period of the National Criminal Code. The type of research used is normative juridical legal research with a statute approach and a conceptual approach. Legal materials are obtained through library studies of relevant laws and regulations, legal literature, and scientific journals. The research results show that there is still disharmony in the regulations between the retributive-punitive Narcotics Law and the National Criminal Code, which emphasizes restorative and rehabilitative justice. The implementation of rehabilitation for drug abusers during the transition period also faces obstacles in the form of dual norms, differing paradigms among law enforcement officials, and the suboptimal synchronization of the Integrated Assessment Team (TAT) mechanism. Therefore, harmonization of regulations and integrated technical guidelines is needed to ensure legal certainty, protection of the rights of drug abusers, and the effective implementation of restorative justice in the Indonesian criminal justice system.

Keywords: *Synchronization, Rehabilitation, Drug Abusers, National Criminal Code, Restorative Justice.*

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Introduction

Drug abuse in Indonesia is a multidimensional problem that is not only related to criminal aspects, but also touches on health, social, economic, and human rights protection dimensions. The phenomenon of increasing drug abuse has prompted the state to establish legal policies that are not solely oriented towards punishment (punitive approach), but also prioritize a rehabilitative approach as a form of protection for individuals experiencing drug dependence. From the perspective of modern criminal law, Law Number 35 of 2009 concerning Narcotics, when viewed from the perspective of legal positivism, views drug trafficking as an act that endangers public health and requires preventive measures and law enforcement. The application of criminal sanctions in prison is considered appropriate for drug dealers, while for addicts, rehabilitation should be prioritized over imprisonment. This is based on considerations of the values of truth, welfare, and justice that should be embodied in the law.^[1] This condition causes legal policies towards drug abusers to always be in a tug-of-war between repressive and rehabilitative approaches, thus giving rise to conceptual and implementation problems in the Indonesian criminal justice system.^[2]

Regulations regarding the rehabilitation of drug abusers gained normative legitimacy through provisions in Law Number 35 of 2009 concerning Narcotics, which stipulates medical and social rehabilitation for both drug addicts and abusers. These provisions demonstrate that lawmakers fundamentally desire a paradigm shift from punishment to rehabilitation for certain drug abusers. Rehabilitation is intended not only as a healing mechanism for addiction but also as an instrument of social reintegration so that individuals can return to their social functions productively within society.^[3] However, the implementation of these rehabilitation norms in practice still shows inconsistencies, as law enforcement tends to place drug abusers within the framework of prison sentences, despite the normative provision for rehabilitation. As a result, disparities in the application of the law often lead to legal uncertainty and a mismatch between the objectives of the law and the actual criminalization practices.^[4]

This issue has become increasingly relevant to study following the enactment of Law Number 1 of 2023 concerning the Criminal Code as a form of reform of national criminal law. The National Criminal Code brings a new orientation to the Indonesian criminal justice system by placing a balance between community protection, legal certainty, perpetrator rehabilitation, and conflict resolution as an integral part of the objectives of punishment. This paradigm emphasizes that modern criminal law no longer merely positions punishment as a means of retribution, but also as a corrective, rehabilitative, and restorative instrument.^[5] However, the existence of two legal instruments that both have implications for drug abuse rehabilitation policies has the potential to raise issues of norm synchronization, particularly regarding the direction of punishment policy, the position of rehabilitation in the sanctions system, and the application of the principle of justice in law enforcement practices.^[6]

Legal synchronization is a crucial aspect in establishing a harmonious legal system, particularly in the context of the relationship between sectoral laws and the national criminal code. Misalignment of norms can lead to conflicting interpretations, ultimately leading to disparities in law enforcement and a loss of legal certainty for drug abusers. In this context, the regulation of drug abuse rehabilitation requires a thorough review to assess whether the provisions of Law Number 35 of 2009 concerning Narcotics align with the spirit of criminal law reform as advocated by the National Criminal Code or whether they leave behind normative disharmony that could potentially hinder the effective implementation of rehabilitation policies.^[7] Analysis of this synchronization is important considering that the success of rehabilitation policies is not only determined by the existence of legal norms, but also by the consistency between the laws and regulations that form the basis for the legitimacy of the actions of law enforcement officers.^[8]

In addition to normative synchronization issues, significant challenges also arise in implementing a rehabilitative approach to drug abuse from a restorative justice perspective during the transitional period of the National Criminal Code. The restorative justice approach

essentially aims to restore social balance through individual recovery, conflict resolution, and social reintegration, rather than solely punishment. In the context of drug abuse, a rehabilitative approach holds strong relevance because drug abusers often experience physical, psychological, social, and even economic damage due to drug dependence.^[9] Therefore, rehabilitation can be understood as a form of substantive justice that not only protects the interests of society from the dangers of drug abuse, but also provides an opportunity for abusers to recover and return to carrying out their social functions.^[10]

However, the implementation of restorative justice-based rehabilitation in Indonesian criminal justice practice still faces various obstacles. Law enforcement officials do not yet have a fully unified perspective on the status of drug abusers, whether they should be classified as pure criminals or individuals in need of medical and social intervention. Furthermore, a predominantly repressive law enforcement culture, limited rehabilitation facilities, weak inter-agency coordination, and disparate interpretations of legal provisions often result in rehabilitation being positioned as an exception rather than a mainstream policy.^[11] In the transition period towards the full implementation of the National Criminal Code, these challenges are increasingly important to examine because the philosophical direction of reforming Indonesian criminal law has provided greater space for a rehabilitative and restorative orientation to punishment.^[12]

Research Methodology

This research uses normative legal research or doctrinal research. This research is a literature review study using qualitative methods oriented towards the study of positive legal norms,^[13] legal principles, synchronization of laws and regulations, legal doctrines, and theoretical concepts related to drug abuse rehabilitation policies in the Indonesian criminal law system. Normative legal research was chosen because the main focus of the research is directed at analyzing the synchronization of drug abuse rehabilitation regulations between Law Number 35 of 2009 concerning Narcotics and Law Number 1 of 2023 concerning the Criminal Code, including the implementation of a rehabilitative approach to drug abusers from a restorative justice perspective during the transition period of the National Criminal Code.^[14]

The research approaches used include the statute approach, the conceptual approach, and the case approach. The statutory approach is carried out through identification, inventory, and review of legal provisions governing the rehabilitation of drug abusers, especially the norms in Law Number 35 of 2009 concerning Narcotics, Law Number 1 of 2023 concerning the Criminal Code, and various regulations related to rehabilitation and restorative justice in the criminal justice system.^[15] This approach is used to assess the level of synchronization, consistency, and possible disharmony of norms that may influence the implementation of drug abuser rehabilitation policies in the national criminal law system.^[16]

A conceptual approach is used to understand various legal theories and concepts related to the synchronization of law, criminal policy, the objectives of punishment, rehabilitation, and restorative justice as a paradigm of modern criminal law.^[17] The use of this approach is necessary because the research is not only limited to reading legal norms textually, but also aims to assess the direction of national criminal law policy in placing drug abusers as subjects of recovery. In this context, modern punishment theory, progressive law, and the concept of restorative justice are used as analytical tools in evaluating the implementation of rehabilitation for drug abusers during the transition period of the National Criminal Code.^[18]

In addition, a limited case approach was used through a review of court decisions, law enforcement policies, and rehabilitation practices for drug abusers relevant to the research focus.^[19] This approach aims to identify gaps between normative aspects (*das sollen*) and empirical implementation (*das sein*), particularly regarding the tendency to criminalize drug abusers, which in practice still often prioritizes imprisonment over rehabilitation.^[20]

The legal materials used in this research consist of primary, secondary, and tertiary legal materials. Primary legal materials include laws and regulations directly related to the research object, such as Law Number 35 of 2009 concerning Narcotics, Law Number 1 of 2023

concerning the Criminal Code, and other regulations related to the rehabilitation of drug abusers and the implementation of restorative justice.^[21] Meanwhile, secondary legal materials were obtained through literature studies in the form of books, scientific articles, legal journals, research results, doctrines, and opinions of legal scholars relevant to drug rehabilitation policies, legal synchronization, and national criminal law reform.^[22]

In this study, secondary legal materials also include methodological views developed by Prof. Henry Aspan and Fitri Rafianti which emphasize the importance of integration between normative, conceptual, and implementative approaches in legal research in order to understand the effectiveness of legal norms comprehensively.^[23] This thinking is relevant to use because this study not only analyzes the alignment of norms for rehabilitation of drug abusers in legislation, but also examines its implementation from a restorative justice perspective during the transition period of the National Criminal Code.^[24]

The technique of collecting legal materials is carried out through library research by inventorying, identifying, classifying, and reviewing various legal materials that are related to the research object.^[25] Furthermore, the analysis of legal materials is carried out qualitatively using descriptive-analytical and prescriptive methods. Descriptive analysis is used to describe the normative construction of rehabilitation for drug abusers in the Narcotics Law and the National Criminal Code, while prescriptive analysis is used to provide legal arguments regarding the ideal form of norm synchronization and the implementation of a rehabilitative approach that is in accordance with the principles of restorative justice during the transition period of the National Criminal Code.^[26]

Results

Synchronization of Drug Abuser Rehabilitation Regulations Between Law Number 35 of 2009 Concerning Narcotics and Law Number 1 of 2023 Concerning the Criminal Code

1. Normative Construction of the Regulation of Rehabilitation of Narcotics Abusers in Law Number 35 of 2009 concerning Narcotics and Law Number 1 of 2023 concerning the Criminal Code

The synchronization of drug abuse rehabilitation regulations between Law Number 35 of 2009 concerning Narcotics and Law Number 1 of 2023 concerning the Criminal Code (National Criminal Code) must first be understood through the normative construction of each regulation. From a criminal law perspective, norm synchronization is not only interpreted as formal conformity between laws and regulations, but also includes philosophical, juridical, and sociological harmony so as not to cause norm conflicts or disparities in the application of the law.^[27] Therefore, analysis of drug abuse rehabilitation policies requires a legal reasoning approach that not only reads the text of the law grammatically, but also assesses the purpose of establishing norms (*ratio legis*) and the orientation of the underlying criminal law policy.^[28]

Law Number 35 of 2009 concerning Narcotics normatively positions rehabilitation as an inherent legal instrument for handling addicts and abusers of certain narcotics. This can be traced through Article 54 which stipulates that narcotics addicts and victims of narcotics abuse are required to undergo medical rehabilitation and social rehabilitation, which is then reinforced through Article 55 regarding reporting obligations and Article 103 which gives judges the authority to order rehabilitation for narcotics addicts.^[29] The construction of this norm shows that the legislators do not merely desire a repressive approach, but rather build a balance between protecting society and the recovery of individuals experiencing narcotics dependence.^[30]

Within the framework of legal reasoning, the existence of rehabilitation norms in the Narcotics Law shows the differentiation of legal treatment between drug dealers, distributors, and abusers. Drug dealers and distributors are positioned as legal subjects who deserve to be subject to heavy criminal sanctions because they have a dimension of intent and economic gain, while certain abusers are positioned as individuals who have rehabilitation needs due to drug dependence.^[31] Thus, the rehabilitation policy in the Narcotics Law basically represents a

double track system model, namely a criminalization system that combines criminal and action (treatment) as instruments for overcoming crime.

Meanwhile, Law Number 1 of 2023 concerning the Criminal Code introduces a new paradigm regarding the objectives of punishment through a corrective, rehabilitative, and restorative orientation. The National Criminal Code no longer positions punishment solely as a means of retribution, but rather aims to prevent criminal acts, rehabilitate perpetrators, resolve conflicts, and restore social balance. In this context, rehabilitation for drug abusers gains philosophical legitimacy because it aligns with the objectives of punishment, which emphasize social reintegration and recovery of offenders. Therefore, although the National Criminal Code does not specifically regulate drug rehabilitation as does the Narcotics Law, conceptually, there is a common ground in the orientation of punishment, which both prioritizes recovery.

The analysis of norm synchronization shows that the relationship between the Narcotics Law and the National Criminal Code can be understood through the principle of *lex specialis derogat legi generali*. In this construction, the regulation of rehabilitation for drug abusers in Law Number 35 of 2009 remains valid as a special norm (*lex specialis*), while the National Criminal Code provides a general framework regarding the objectives of punishment and the principles of imposing criminal sanctions. Thus, the existence of the National Criminal Code does not eliminate the rehabilitation norm in the Narcotics Law, but rather strengthens its philosophical legitimacy because there is a common orientation towards the rehabilitation of perpetrators as part of the objectives of modern criminal law.

However, this normative synchronization is not entirely free from interpretational issues. In law enforcement practice, there is still a tendency for law enforcement officials to view drug abusers as purely criminals, often neglecting rehabilitation. This issue demonstrates that the problem of synchronization lies not only at the normative level, but also in the implementation aspect and the legal culture of law enforcement officials in understanding rehabilitation as a restorative measure rather than a punitive one. Therefore, legal harmonization between the Narcotics Law and the National Criminal Code must be understood substantively, namely ensuring the alignment of criminal law policy orientations, not merely the formal coexistence of norms. When examined through a vertical and horizontal synchronization approach, the rehabilitation policy for drug abusers in Law Number 35 of 2009 concerning Narcotics is compatible with the direction of criminal policy in the National Criminal Code. Vertical synchronization is reflected in the alignment of the basic values of national criminal law, which prioritizes community protection and the development of offenders as legal objectives. Horizontal synchronization is evident in the absence of explicit normative conflict between the provisions on rehabilitation in specific laws and the orientation of punishment in the National Criminal Code. From a legal reasoning perspective, the existence of rehabilitation norms actually gains conceptual reinforcement because the National Criminal Code places corrective and rehabilitative aspects as part of the objectives of modern punishment, which is no longer solely oriented toward retribution.

Furthermore, the construction of rehabilitation for drug abusers can also be understood through criminal policy theory, which views criminal law as an instrument of social control and a means of community protection. In this context, the criminalization of drug abusers cannot be separated from the need to balance repressive aspects with a restorative approach. Therefore, rehabilitation is a concrete form of criminal policy that seeks to reduce the negative impacts of drugs while preventing recurrence of abuse through therapeutic mechanisms and social reintegration. Therefore, the rehabilitation policy in the Narcotics Law does not substantially contradict the direction of criminal law reform in the National Criminal Code, but rather exists in a complementary relationship.

On the other hand, normative analysis also shows that potential disharmony can arise at the level of legal interpretation if law enforcement officials understand the concept of rehabilitation in a restrictive manner. In certain practices, there is a tendency to position drug abusers as pure criminals without considering the condition of dependency, medical

assessment, or the inherent victimological dimension of drug abuse. This situation indicates that the main problem lies not in the conflicting norms between the Narcotics Law and the National Criminal Code, but rather in the disparity in legal interpretation, which has implications for the inconsistent implementation of rehabilitation policies.

Furthermore, from a penal system perspective, the rehabilitation of drug abusers reflects the application of the double-track system principle, a system that allows for the simultaneous use of criminal and punitive measures as a means of combating crime. Within this paradigm, rehabilitation is positioned as a corrective instrument oriented toward healing, development, and social reintegration, while imprisonment is more directed toward accountability for offenders with a certain level of culpability. Thus, the existence of the National Criminal Code can be seen as broadening the philosophical legitimacy of rehabilitation by accommodating a more adaptive concept of punishment that addresses the needs of individual recovery and community protection.

2. Harmonization and Problems of Synchronization of Rehabilitation of Drug Abusers from the Perspective of National Criminal Law Reform

From the perspective of national criminal law reform, synchronizing drug abuse rehabilitation policies cannot be separated from the restorative justice orientation that has developed in the modern criminal law system. Philosophically, restorative justice views that criminal case resolution should be directed at restoring the offender's condition, resolving conflicts, and social reintegration, rather than simply inflicting suffering through imprisonment.^[32] This approach is relevant to drug abusers because individuals experiencing dependence are not only viewed as perpetrators of criminal acts, but also as victims of substance abuse requiring medical and social intervention.^[33]

Within the framework of legal reasoning, the existence of rehabilitation in the Narcotics Law can be positioned as a concrete form of implementation of the objectives of modern punishment which then gained conceptual legitimacy through the National Criminal Code. If examined systematically, the rehabilitative orientation in the Narcotics Law and the objectives of punishment in the National Criminal Code have points of intersection in the form of community protection, prevention of recidivism, correctional of offenders, and restoration of social balance. Thus, the synchronization of rehabilitation regulations is not only evident in the conformity of legal norms, but also in the alignment of the punishment paradigm that prioritizes a humanistic and corrective approach.

However, the main problem of synchronization arises at the level of legal implementation. Law enforcement practices still show disparities in the treatment of drug abusers, particularly in determining whether someone deserves rehabilitation or imprisonment. Law enforcement officials often use a quantitative approach based on the amount of evidence without considering medical assessments, dependency conditions, or the victimological aspects of drug abusers. As a result, rehabilitation, which is normatively positioned as an instrument of recovery, is instead positioned as an exception in the practice of the criminal justice system.

On the other hand, the transition period of the National Criminal Code also raises the need for harmonization of policies between law enforcement agencies to avoid disharmony in interpretation. This harmonization is important to be carried out through strengthening technical regulations, increasing coordination between institutions, aligning the perspectives of law enforcement officers, and optimizing integrated assessments in determining the form of treatment for drug abusers. Thus, synchronization of drug abuse rehabilitation regulations does not stop at the conformity of the legal text between the Narcotics Law and the National Criminal Code, but must also be realized through consistent implementation to ensure legal certainty, benefits, and substantive justice in the Indonesian criminal law system.^[34]

From the perspective of national criminal law reform, harmonizing the rehabilitation of drug abusers must also be understood as part of the state's legal policy in building a more humanistic penal system. Modern criminal law policy no longer positions punishment as the

sole instrument for resolving social problems, but also opens up space for corrective and restorative approaches. Therefore, the rehabilitation of drug abusers is crucial in realizing the goal of penal punishment, which not only protects society from the dangers of drugs but also provides individuals with the opportunity for dignified recovery and social reintegration.

The issue of implementation harmonization is becoming increasingly important because the success of rehabilitation is not only determined by the existence of legal norms, but is also influenced by the legal culture of law enforcement officials. In this context, differences in perspectives between investigators, public prosecutors, judges, and rehabilitation institutions often lead to disparities in determining the form of treatment for drug abusers. Many cases show that a rehabilitative approach is only considered after a long legal process has been carried out, even though normatively, an initial assessment of the level of dependency should be an integral part of the law enforcement process.

In addition, the transition period towards the full implementation of the National Criminal Code requires a more concrete harmonization of technical regulations to prevent dual interpretations of the concept of rehabilitation. This harmonization can be achieved through strengthening technical guidelines for law enforcement officers, optimizing integrated assessments, increasing the capacity of rehabilitation institutions, and strengthening coordination between related agencies.^[35] From a legal reasoning perspective, implementation harmonization is an urgent need because the law cannot stop at normative construction, but must guarantee the effectiveness and certainty of the application of norms in practice.

Ultimately, the synchronization of drug abuse rehabilitation policies between Law Number 35 of 2009 concerning Narcotics and Law Number 1 of 2023 concerning the Criminal Code must be understood as a mutually reinforcing relationship, not a mutually negating one. The Narcotics Law provides specific normative instruments regarding rehabilitation, while the National Criminal Code provides a philosophical framework and objectives for punishment that are more corrective, rehabilitative, and restorative. Thus, harmonization of these two regulations needs to be directed towards the formation of a criminal law system that is able to integrate legal certainty, benefit, and substantive justice through the implementation of rehabilitation that is consistent and based on the recovery needs of drug abusers.^[36]

How to Implement a Rehabilitative Approach to Drug Abusers from a Restorative Justice Perspective During the Transition Period of the National Criminal Code

1. Implementation of a Rehabilitative Approach to Drug Abusers from a Restorative Justice Perspective during the Transition Period of the National Criminal Code

The implementation of a rehabilitative approach to drug abuse represents a paradigm shift in criminal law, no longer placing imprisonment as the sole instrument for crime prevention, but rather integrating a restorative approach as part of the goal of punishment. In the context of drug abuse, the rehabilitative approach gains normative legitimacy through the provisions for medical and social rehabilitation in Law Number 35 of 2009 concerning Narcotics, which provides space for the recovery of individuals experiencing drug dependence. Substantively, drug abusers cannot be viewed solely as criminals, but also as individuals who experience physical, psychological, and social harm due to the use of addictive substances. Therefore, a punitive approach alone is not always able to address the root causes of drug abuse. Therefore, rehabilitation is positioned as a legal instrument aimed at restoring individuals to their condition so they can function productively in society.^[37]

From a legal reasoning perspective, rehabilitation for drug abusers has strong legal rationality because it is based on the understanding that criminal law must be able to create substantive justice, not just produce formal punishment. Drug abusers are often positioned as self-victimizing victims, namely individuals who simultaneously act as perpetrators and victims due to their drug addiction. Therefore, imposing a prison sentence without considering the condition of addiction has the potential to ignore the rehabilitative goals mandated by law and increase the risk of recidivism. In this context, a rehabilitative approach becomes more rational

because it is directed at healing, guidance, and social reintegration as a form of protection for both the individual and society.^[38]

The rehabilitative approach is also closely linked to the principle of restorative justice, which places recovery as the primary focus of criminal case resolution. Within the restorative justice paradigm, case resolution aims not only to punish the perpetrator, but also to restore social balance, repair disrupted relationships, and ensure that individuals can function socially within society. When contextualized for drug abusers, rehabilitation is an instrument aligned with the goals of restorative justice because it not only reduces the impact of drug abuse on individuals but also minimizes the social, economic, and criminal burdens caused by drug dependence. Thus, rehabilitation can be understood as a more substantive form of justice than a repressive approach that focuses solely on punishment.^[39]

During the transition to the implementation of the National Criminal Code, the rehabilitative approach has gained increasing relevance because the objective of punishment under the National Criminal Code is no longer solely oriented towards retribution, but also encompasses community protection, perpetrator development, conflict resolution, and the restoration of social balance. With this paradigm shift, the rehabilitation of drug abusers has gained philosophical legitimacy as part of a modern criminal justice policy that prioritizes social reintegration over mere deterrence. From this perspective, rehabilitation is not viewed as a form of leniency, but as a corrective mechanism designed to reduce the likelihood of reoffending through comprehensive individual rehabilitation.^[40]

Although normatively the rehabilitative approach has gained considerable legitimacy, its implementation in the criminal justice system still faces various problems. At the investigation and prosecution stages, law enforcement officials in many cases still position drug abusers as pure criminals without thoroughly considering the individual's condition of dependency and rehabilitative needs. As a result, rehabilitation is often positioned only as a secondary option after the criminal approach, even though normatively rehabilitation has gained considerable space in the Indonesian legal system. This condition indicates a gap between the normative construction of law and its empirical implementation in the field.^[41]

In addition to being influenced by the repressive paradigm of law enforcement officers, the implementation of rehabilitation also faces institutional obstacles in the form of limited medical and social rehabilitation facilities, a lack of professional staff, and a suboptimal integrated assessment mechanism that determines whether someone is worthy of rehabilitation or imprisonment. In practice, many rehabilitation processes are purely administrative in nature without being accompanied by a sustainable recovery program that is able to address the root of the psychological and social problems of drug abusers. This condition shows that the success of rehabilitation is not only determined by legal norms, but also by institutional readiness and the quality of inter-agency coordination in supporting its implementation.^[42]

From a restorative justice perspective, the rehabilitative approach to drug abusers during the transitional period of the National Criminal Code must be understood as a legal policy that has a long-term orientation towards community protection and individual recovery. Rehabilitation not only aims to break drug dependence, but also returns individuals to being productive members of society and no longer involved in criminal behavior. Therefore, the successful implementation of rehabilitation requires harmonization between legal norms, the legal culture of law enforcement officers, the capacity of rehabilitation institutions, and social acceptance of the concept of recovery as part of the modern criminal justice system.^[43]

Thus, the implementation of a rehabilitative approach to drug abusers from a restorative justice perspective during the transitional period of the National Criminal Code demonstrates normative alignment between the goals of rehabilitation and the modern sentencing paradigm, but also presents serious implementation challenges. From a legal reasoning perspective, rehabilitation should be positioned as the primary instrument for certain drug abusers because it integrates the values of legal certainty, expediency, and substantive justice through a more humane, corrective, and long-term recovery-oriented approach.^[44]

2. Problems and Reconstruction of the Implementation of the Rehabilitative Approach to Drug Abusers during the Transition Period of the National Criminal Code

The implementation of a rehabilitative approach to drug abusers during the transition period of the National Criminal Code cannot be separated from various normative and practical problems that influence the effectiveness of its implementation in the criminal justice system. Normatively, Law Number 35 of 2009 concerning Narcotics has provided a fairly clear legal basis for medical rehabilitation and social rehabilitation, while the National Criminal Code presents a more corrective, rehabilitative, and restorative paradigm of punishment. However, in law enforcement practice, inconsistencies are still found in the application of rehabilitation because law enforcement officials often emphasize the punitive approach rather than the restorative approach. This condition indicates that the main problem of implementation does not always stem from weaknesses in norms, but from differences in perspectives on the purpose of punishment and the position of drug abusers in the criminal law system.^[45]

From a legal reasoning perspective, this implementation disharmony is closely related to a legal culture that still places the success of drug law enforcement on repressive indicators, such as high rates of arrests, prosecutions, and prison sentences. As a result, drug abusers are more often positioned as objects of punishment rather than subjects requiring rehabilitative intervention. However, when analyzed based on the objectives of modern criminal law, punishment without rehabilitation for individuals experiencing drug dependence has the potential to increase recidivism and exacerbate the social problems that criminal law itself aims to address. Therefore, a rehabilitative approach requires a paradigm shift in law enforcement officials from a retaliatory orientation to a rehabilitation orientation based on the individual needs of the perpetrator.^[46]

In addition to legal culture issues, the problematic implementation of rehabilitation is also related to the suboptimal integrated assessment as a tool for determining the eligibility of drug abusers for rehabilitation. In practice, assessments are often inconsistently implemented or viewed merely as an administrative formality, resulting in decisions regarding rehabilitation being influenced more by quantitative approaches, such as the amount of evidence, rather than a comprehensive assessment of the individual's condition of dependency, social background, and medical needs. This situation has implications for disparities in case handling, as individuals with similar characteristics may receive different legal treatment depending on the interpretation of law enforcement officials.^[47]

Another problem lies in the limitations of rehabilitation institutions, which are not yet fully capable of optimally accommodating the recovery needs of drug abusers. The limited number of rehabilitation facilities, the lack of professionals in the fields of mental health and addiction, and weak coordination between agencies often result in rehabilitation being ineffective and unsustainable. From a restorative justice perspective, these conditions indicate that the success of rehabilitation is determined not only by legal norms, but also by the readiness of social and institutional systems to support the social reintegration process for individuals who have undergone rehabilitation.^[48]

During the transition period of the National Criminal Code, the need for harmonization of rehabilitation implementation becomes increasingly important considering the shift in the paradigm of punishment promoted by the National Criminal Code which places social reintegration and correctional rehabilitation of perpetrators as part of the objectives of criminal law. Therefore, the implementation of rehabilitation for drug abusers needs to be supported by more adaptive technical regulations, including strengthening guidelines for handling drug cases based on rehabilitation, standardization of integrated assessments, and increased coordination between law enforcement officers, rehabilitation institutions, and health workers. In this way, rehabilitation does not stop as a normative concept, but truly becomes a consistent and measurable legal practice.^[49]

From a restorative justice perspective, the reconstruction of rehabilitation implementation for drug abusers must be directed at efforts to restore social relationships, improve the

individual's quality of life, and prevent the recurrence of criminal acts through a more humanistic approach. Rehabilitation must be understood as a resolution mechanism aimed at breaking the cycle of dependency and returning individuals to being productive members of society, not simply a form of leniency. Therefore, rehabilitation policies require the involvement of families, communities, medical personnel, social institutions, and the state as actors who are jointly responsible for the success of the recovery process.

From a legal reasoning perspective, the reconstruction of rehabilitative implementation during the transitional period of the National Criminal Code must be built through harmonization of legal substance, legal structure, and legal culture. Legal substance requires clear norms and technical regulations that support rehabilitation, legal structure requires coordination and professionalism among law enforcement officials, while legal culture requires a shift in the social paradigm regarding drug abusers as individuals requiring rehabilitation, not merely punishment. Integrating these three aspects is a crucial prerequisite for creating an effective rehabilitation system that aligns with the objectives of modern criminal justice. Thus, the implementation of a rehabilitative approach to drug abusers during the transitional period of the National Criminal Code demonstrates that the greatest challenge lies in transforming legal implementation, not merely establishing legal norms. Within a restorative justice framework, rehabilitation must be positioned as the primary instrument for certain drug abusers because it has the ability to integrate legal certainty, benefit, and substantive justice through a more humane, systematic, and long-term recovery approach oriented toward community protection.

Conclusion

The synchronization of drug abuse rehabilitation regulations between Law Number 35 of 2009 concerning Narcotics and Law Number 1 of 2023 concerning the Criminal Code, it can be concluded that normatively the two regulations have a complementary relationship and show substantive synchronization in the orientation of punishment that prioritizes individual recovery, community protection, and social reintegration of drug abusers. The Narcotics Law functions as a *lex specialis* that specifically regulates medical and social rehabilitation through a double-track system approach, while the National Criminal Code strengthens the philosophical legitimacy of rehabilitation through a corrective, rehabilitative, and restorative punishment paradigm oriented towards substantive justice. However, this normative harmonization has not been fully followed by implementation harmonization because there is still a disparity in interpretation among law enforcement officials who tend to position drug abusers as pure criminals, so that rehabilitation is often positioned as an exception compared to imprisonment. Therefore, the effectiveness of implementing a rehabilitative approach during the transition period of the National Criminal Code requires strengthening integrated assessments, harmonization of technical regulations, alignment of perspectives of law enforcement officers, and strengthening inter-institutional coordination to realize a criminal law system that guarantees legal certainty, benefits, and restorative justice in a balanced manner.

The implementation of a rehabilitative approach to drug abusers from a restorative justice perspective during the transition period of the National Criminal Code (KUHP) demonstrates that rehabilitation has gained strong legitimacy as a sentencing instrument oriented toward individual recovery, social reintegration, and community protection through the provisions of Law Number 35 of 2009 concerning Narcotics, which is philosophically reinforced by the corrective, rehabilitative, and restorative sentencing paradigms in the National Criminal Code. The rehabilitative approach is not only relevant because it views drug abusers as criminals but also as individuals experiencing dependence and requiring medical and social intervention, making it more aligned with restorative justice principles than a repressive approach focused solely on punishment. However, the implementation of rehabilitation still faces various obstacles, including a repressive legal culture within law enforcement agencies, suboptimal integrated assessments, disparities in case handling, limited rehabilitation facilities, and weak

inter-agency coordination, creating a gap between normative legal construction and empirical practice in the field. Therefore, during the transition period of the National Criminal Code, it is necessary to reconstruct the implementation of rehabilitation through harmonization of legal substance, strengthening of technical regulations, changing the paradigm of law enforcement officers, increasing the capacity of rehabilitation institutions, and integrating legal structures, legal culture, and social support from the community in order to realize a criminal justice system that is able to guarantee legal certainty, benefits, and substantive justice in a balanced manner

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