




# The Protection of Human Rights in the Case of Non-Criminal Narcotics Users

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## Abstract

**Introduction:** Narcotics use as a complex global issue has an impact on human rights, especially in the context of criminal law. Although some countries, including Indonesia, are beginning to recognize human rights protections in non-criminal narcotics use, the main challenge is striking a balance between strict regulation and appropriate protection for individuals who need narcotics for treatment or non-criminal purposes.

**Purposes of the Research:** The aim of this research is to analyze relevant laws and regulations and related practices in protecting human rights in the case of non-criminal narcotics users.

**Methods of the Research:** This research uses normative legal research methods to analyze laws and regulations related to non-criminal narcotics use. Data sources include statutory documents, court decisions, and legal literature. Data analysis will look for patterns and evaluate regulatory compliance with human rights principles.

**Results of the Research:** To protect human rights in cases of non-criminal narcotics use in Indonesia, legislation plays an important role, although challenges such as abuse of power and social stigma remain. Cooperation between government, NGOs and civil society is needed to implement existing regulations and increase public understanding of human rights. Indonesia needs to find a balance between strict narcotics regulations and protecting individual rights. This involves clear definitions for "non-criminal" narcotics, fair law enforcement, as well as safeguarding individual privacy. The challenges involve racial and social injustice in drug law enforcement and require an evidence-based approach that engages diverse stakeholders. Continuous research and analysis is needed to support better policies to address the narcotics problem.

## 1. INTRODUCTION

Narcotics use has become a complex global issue and often has an impact on human rights. In many countries, including Indonesia, the use of narcotics is often considered an illegal act and a criminal offense. Human rights are the foundation that underlies every civilized society, and protecting these rights is the main task of the state in safeguarding the welfare of its citizens.<sup>1</sup> In a more specific context, the issue of protecting human rights has become a serious concern in many countries around the world, especially when it comes to

<sup>1</sup> Joanne Csete and others, 'Public Health and International Drug Policy', *The Lancet*, 387.10026 (2016), 1427-80 <[https://doi.org/10.1016/S0140-6736\(16\)00619-X](https://doi.org/10.1016/S0140-6736(16)00619-X)>.

cases of narcotics use. Protection of human rights is one of the main foundations in modern legal concepts that regulate social order. Human rights are recognized as basic rights inherent in every individual, regardless of race, religion, gender or social background.<sup>2</sup> In the context of criminal law, the protection of human rights is an important aspect that must be considered. In the context of narcotics, human rights also include the right to privacy, the right to protection from inhuman or degrading treatment, and the right to adequate health care. When individuals use narcotics in a medical or therapeutic context, these rights become particularly relevant. International legislation, such as the UN Conventions on Narcotics of 1961 and 1971, also considers the protection of human rights in regulating the use of narcotics.<sup>3</sup>

Narcotics use is often associated with criminal acts, such as smuggling, distribution or production of narcotics. However, there are situations where individuals use narcotics without being involved in criminal acts in line with the concept of public health.<sup>4</sup> For example, the use of medical narcotics supervised by licensed medical personnel or the use of narcotics aimed at treating certain diseases. In many countries, there are efforts to understand and formulate fairer regulations regarding non-criminal narcotics use. One of the challenges in understanding and implementing this concept is when the government faces cases of narcotics use, especially in situations where narcotics users are not criminals. The case of non-criminal drug users is a complex challenge that requires a balanced approach between strict drug policies and the protection of human rights.<sup>5</sup> Indonesia has various laws and regulations that regulate the use of narcotics. Law Number 35 of 2009 concerning Narcotics is the main legal basis regarding narcotics problems in Indonesia. However, these laws tend to focus on aspects of criminal law and law enforcement, which makes them less reflective of human rights protection in the context of non-criminal narcotics use. In recent years, there have been positive developments in efforts to recognize the protection of human rights in the context of non-criminal narcotics use in Indonesia. In 2019, the Indonesian Constitutional Court issued a historic decision ruling that non-criminal use of narcotics for medical treatment is not punishable. This decision is a significant step in recognizing the human rights of individuals who require narcotics for treatment.<sup>6</sup>

Apart from that, the National Narcotics Agency (BNN) has also issued Head of BNN Regulation Number 9 of 2020 concerning Guidelines for Prevention, Treatment and Rehabilitation for Narcotics Users. These guidelines reflect positive steps in ensuring that individuals who use non-criminal narcotics for medical treatment receive appropriate protection and appropriate treatment. The main challenge faced in the case of non-criminal narcotics users is how to strike a balance between strict narcotics regulations to prevent

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<sup>2</sup> Ananthia Ayu, Titis Anindyajati, and Abdul Ghoffar, 'Perlindungan Hak Privasi Atas Data Diri Di Era Ekonomi Digital', *Pusat Penelitian Dan Pengkajian Perkara, Dan Pengelolaan Perpustakaan Kepaniteraan Dan Sekretariat Jenderal Mahkamah Konstitusi*, 2019, 101.

<sup>3</sup> R. Douglas Bruce and Rebecca A. Schleifer, 'Ethical and Human Rights Imperatives to Ensure Medication-Assisted Treatment for Opioid Dependence in Prisons and Pre-Trial Detention', *International Journal of Drug Policy*, 19.1 (2008), 17-23 <<https://doi.org/10.1016/j.drugpo.2007.11.019>>.

<sup>4</sup> ICJR, *Memperkuat Revisi Undang-Undang Narkotika Indonesia: Usulan Masyarakat Sipil* (Jakarta: Institute for Criminal Justice Reform, 2017).

<sup>5</sup> Muammar Muammar, 'Kajian Kriminologi Peredaran Narkotika (Sebuah Studi Di Kabupaten Aceh Timur)', *Jurnal Al-Ijtima'iyyah*, 5.1 (2019), 35 <<https://doi.org/10.22373/al-ijtima'iyyah.v5i1.5133>>.

<sup>6</sup> Wenda Hartanto, 'Penegakan Hukum Terhadap Kejahatan Narkotika Dan Obat-Obat Terlarang Dalam Era Perdagangan Bebas Internasional Yang Berdampak Pada Keamanan Dan Kedaulatan Negara', *Legislasi Indonesia*, 14 (2017), 1-16 <<http://daerah.sindonews.com/read/1080045/174/bandar-sabu-malaysia-simpan-narkoba-dalam-saset>>.

abuse and ensuring that individuals who need narcotics for treatment or non-criminal purposes receive adequate human rights protection.

This research aims to analyze relevant laws and regulations and related practices in protecting human rights in the case of non-criminal narcotics users. By understanding the applicable legal and regulatory context, as well as best practices in regulating non-criminal narcotics use, this research will provide a deeper understanding of how to achieve the right balance between strict narcotics policies and the protection of human rights. The problem formulation related to this research can be formulated as follows: 1) How do Indonesian laws and regulations affect the protection of human rights in cases of non-criminal narcotics use?; 2) What are the main implications and challenges faced in creating a balance between strict narcotics regulations and human rights protection in the case of non-criminal narcotics users?. The significance of this research lies in its contribution to the broader discussion about changing narcotics policies that are more humane and evidence-based. With a better understanding of the human rights implications of drug regulation, governments and other stakeholders can develop a more balanced and pro-individual well-being approach.

## 2. METHOD

This research uses normative legal research methods as the main approach. This method will allow researchers to analyze various relevant laws and regulations in the context of narcotics use that is not related to criminal acts. The legislative approach is the main focus in this research, where researchers will investigate various legal regulations that regulate the use of narcotics in non-criminal contexts. This includes laws, government regulations, and public policies that may have an impact on the human rights of individuals who use non-criminal drugs. Sources of research material may include relevant legislative documents, relevant court decisions, reports from human rights organizations, and legal literature related to this issue. Data collection techniques may involve document study and content analysis. Document studies will be used to collect information from various written sources that are relevant to the research topic. Content analysis will help in evaluating and interpreting the content of relevant regulations and legal documents. Data analysis techniques in this research may involve content analysis to identify patterns and themes in existing regulations. In addition, comparison and evaluation of regulations with human rights principles can be carried out to evaluate the extent to which human rights protection has been implemented in cases of non-criminal narcotics use. By using normative legal research methods, legislative approaches, relevant research material sources, as well as appropriate data collection and analysis techniques, this research is expected to provide a valuable contribution in understanding and improving the protection of human rights in the context of non-criminal narcotics use.

## 3. RESULTS AND DISCUSSION

### 3.1 Protection of Human Rights in Cases of Non-Criminal Narcotics Use: What are the Legislation in Indonesia?

Protection of human rights is one of the fundamental principles upheld in Indonesian law. However, there are several laws and regulations that can affect the protection of human rights, especially in the context of non-criminal narcotics use.<sup>7</sup> Legislation in Indonesia has

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<sup>7</sup> Andi Akhirah Khairunnisa, 'Penerapan Prinsip-Prinsip Hak Asasi Manusia Dalam Pembentukan Produk Hukum Oleh Pemerintah Daerah', *Penggunaan Model Pembelajaran Time Token Arends Dan Nht Untuk*  
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a significant role in influencing the protection of human rights, especially in the context of non-criminal narcotics use. Non-criminal narcotics use includes the legal use of certain drugs administered by health workers and for medical purposes. In this case, legislation plays an important role in regulating, controlling and protecting the human rights of the individuals involved. Below, some relevant legislation and how they impact human rights protection in this context.

1) Law Number 35 of 2009 concerning Narcotics

This law is the main legal framework that regulates narcotics problems in Indonesia. Even though it is often considered a harsh regulation regarding the handling of narcotics, this law has a number of provisions that protect human rights. One relevant aspect is Article 8 which explains that the use of narcotics for treatment by health workers who have a valid license cannot be considered a violation of the law.<sup>8</sup> This shows that the law recognizes an individual's right to obtain adequate medical care, including non-criminal narcotics use in a medical context. Article 50, the Narcotics Law provides exceptions for narcotics users who are proven or stated by an expert doctor to suffer from mental disorders. This is a positive step in the protection of human rights because it recognizes that individuals with mental health problems should not be harshly punished for drug use. However, the implementation of Article 50 still requires strict supervision to ensure that there is no abuse of power by the authorities and that individuals who truly need mental health assistance receive it without discrimination.

2) Law Number 36 of 2009 concerning Health

This law regulates various aspects of health in Indonesia, including the use of controlled drugs. Article 54 of this Law confirms everyone's right to receive adequate and quality health services. This is relevant in the context of non-criminal drug use because it emphasizes the importance of providing adequate medical care to individuals who need it.<sup>9</sup> Thus, Law Number 36 of 2009 contributes to the protection of human rights in the context of non-criminal narcotics use.

3) Law Number 11 of 2012 concerning the Juvenile Criminal Justice System

When we talk about non-criminal narcotics use, this can also involve children. This law regulates the juvenile criminal justice system in Indonesia. One of the basic principles in this law is the best interests of the child, which includes the right to special protection and medical care if they engage in non-criminal narcotic use.<sup>10</sup> Thus, Law Number 11 of 2012 provides additional protection for the human rights of children involved in this problem.

4) Law Number 18 of 2014 concerning Mental Health

This law provides the legal basis for the protection of human rights in the context of mental health. Non-criminal drug use is often associated with mental health problems. This law has the potential to provide protection and support for individuals involved

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*Meningkatkan Life Skill Siswa Dengan Memperhatikan Motivasi Belajar Pada Mata Pelajaran Pkn Kelas Viii Smp Negeri 5 Bandar Lampung Tahun Pelajaran 2015/2016*, 5.1 (2018), 65–78.

<sup>8</sup> Desi Dwi Hariyani, 'Perbedaan Penafsiran Dalam Penerapan Hukum Sebagai Kriminogen Dalam Pemberantasan Tindak Pidana Narkotika', *Jurnal Hukum Dan Pembangunan Ekonomi*, 8.1 (2020), 23 <<https://doi.org/10.20961/hpe.v8i1.44293>>.

<sup>9</sup> Hernadi Affandi, 'Implementasi Hak Atas Kesehatan Menurut Undang-Undang Dasar 1945: Antara Pengaturan Dan Realisasi Tanggung Jawab Negara', *Jurnal Hukum Positum*, 4.1 (2019), 36 <<https://doi.org/10.35706/positum.v4i1.3006>>.

<sup>10</sup> Ardhi Prasetyo, 'Diversi Tindak Pidana Narkotika Terhadap Anak (Studi Kasus Di Kabupaten Sambas)', *Jurnal Nestor Magister Hukum*, 4.4 (2017).

in non-criminal drug use with a focus on rehabilitation and treatment rather than punishment.<sup>11</sup>

Article 43 of this Law states that every person suffering from mental health disorders has the right to receive quality medical, psychosocial and rehabilitation treatment. This is an important basis that the Indonesian government must adhere to in dealing with individuals who use narcotics as a result of mental health problems. Thus, the Mental Health Law emphasizes the need for treatment that is more oriented towards rehabilitation rather than punishment in cases of non-criminal narcotics use..

5) Law Number 23 of 2002 concerning Child Protection

This law generally regulates child protection in Indonesia. Certain sections of this law are particularly relevant in the context of non-criminal drug use involving children. For example, Article 28 stipulates that every child has the right to receive adequate health care and good care. Therefore, this law contributes to the protection of children's human rights in such situations.

6) Law Number 13 of 2006 concerning Protection of Witnesses and Victims

For those involved in non-criminal drug use cases, such as drug users who want to stop, witness and victim protection is an important issue. This law provides a legal basis for protecting witnesses and victims, and in the context of narcotics use, it can help reduce the fear or stress that individuals who want to stop using narcotics may experience.<sup>12</sup>

7) Law Number 39 of 1999 concerning Human Rights

One law that is particularly relevant in this context is the Human Rights Act. Article 17 of this law affirms everyone's right to life, as well as the right to personal freedom and security. In the context of non-criminal drug use, this reflects the importance of protecting individuals' rights to adequate and safe medical care. This law provides a strong legal foundation to protect the human rights of individuals involved in non-criminal narcotics use.<sup>13</sup>

Although there are regulations that should protect human rights in this context, there are still challenges in implementing and fulfilling these rights. One of the main challenges is the abuse of power by law enforcement officials. Cases of abuse of power, torture, or inhumane treatment of narcotics users often occur, and this constitutes a serious violation of human rights. In addition, many individuals who use narcotics due to social or economic factors can also become victims of human rights violations such as discrimination and exclusion.

To overcome this challenge, Indonesia needs to strengthen independent supervision and monitoring mechanisms for law enforcement related to narcotics. The National Human Rights Commission (Komnas HAM) has an important role in monitoring human rights in Indonesia, including in cases related to narcotics. In order to ensure better protection of human rights in cases of narcotics use, the role and authority of Komnas HAM must be strengthened, and the reports and recommendations provided by this institution must be respected and implemented by the government.

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<sup>11</sup> Donny Michael Situmorang, 'Implementasi Undang-Undang Narkotika Ditinjau Dari Perspektif Hak Asasi Manusia', *Jurnal Penelitian Hukum De Jure*, 18.3 (2018), 415 <<https://doi.org/10.30641/dejure.2018.V18.415-432>>.

<sup>12</sup> Edi Abdullah, *Perlindungan Saksi Dan Korban Dalam Sistem Peradilan Pidana (Suatu Kajian Hukum Normatif)* (Makassar: Universitas Hasanuddin, 2008).

<sup>13</sup> Sipghotulloh Mujaddidi, 'Konstitusionalitas Pembatasan Hak Asasi Manusia Dalam Putusan Mahkamah Konstitusi', *Jurnal Konstitusi*, 18.3 (2022), 539 <<https://doi.org/10.31078/jk1833>>.

Protection of human rights in cases of non-criminal narcotics use does not only depend on statutory regulations. Effective implementation and fulfillment of these rights also depends on public awareness, appropriate training for law enforcement officers and medical personnel, and cooperation between various government agencies, NGOs, and civil society. In addition, public education about the dangers of narcotics use and the importance of treatment and rehabilitation is also an important part of efforts to protect human rights.

Apart from the legal regulations already mentioned, there are several important issues that need to be explained in the context of human rights protection in cases of non-criminal narcotics use. One of these issues is the problem of social discrimination faced by individuals who use narcotics. Social stigma against drug users often results in serious exclusion and discrimination. This can prevent individuals from seeking the medical help or rehabilitation they need.<sup>14</sup> Therefore, it is important to involve society more broadly in efforts to overcome this stigma and increase understanding of the health problems underlying drug use.

Additionally, it is important to note that approaches that focus on prevention and rehabilitation rather than punishment also have greater long-term benefits for society. By encouraging individuals who use drugs to seek medical help, we can reduce the risk of transmitting infectious diseases such as HIV and AIDS. Additionally, rehabilitation approaches also have the potential to help individuals involved in drug use to address the root of their mental health or social problems, which in turn can improve their quality of life.<sup>15</sup>

However, despite legislation supporting a human rights-based approach in cases of non-criminal drug use, much work remains to be done to ensure better protection of individual rights in this context. The Indonesian government needs to work with NGOs, human rights organizations, and civil society to ensure that the regulations are implemented effectively and that individual rights are respected and protected. In addition, public education about drug use, mental health, and human rights also needs to be improved so that society can better understand this problem and support an approach that is more oriented towards rehabilitation rather than punishment.

In order to improve human rights protection in cases of non-criminal narcotics use, it is important for the Indonesian government to ensure that existing laws and regulations are properly implemented and that individuals who require medical treatment involving narcotics receive appropriate access. Additionally, approaches that focus on public education, reducing stigma, and better understanding human rights can also help improve protection of the rights of individuals involved in these types of situations.

In the explanation above, it can be seen that the laws and regulations in Indonesia have a significant impact on the protection of human rights in cases of non-criminal narcotics use. The Narcotics Law and Mental Health Law provide an important legal basis for a human rights-based approach to dealing with individuals who use narcotics, with an emphasis on rehabilitation rather than punishment. However, challenges such as abuse of power by law enforcement officers and social stigma remain serious problems. To overcome this challenge, there needs to be a concerted effort from government, NGOs, and civil society to

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<sup>14</sup> Ade Latifa and Sri Sunarti Purwaningsih, 'Peran Masyarakat Madani Dalam Mengurangi Stigma Dan Diskriminasi Terhadap Penderita HIV & AIDS', *Jurnal Kependudukan Indonesia*, 6.2 (2016), 51–76.

<sup>15</sup> Agus Supriyanto and Nurlita Hendiani, *Pendekatan Bimbingan Dan Konseling Narkoba (Panduan Pencegahan Narkoba Berbasis Masyarakat Dan Pendekatan Konseling Pada Program Rehabilitasi Narkoba)* (yogyakarta: K-Media, 2021).

ensure effective implementation of existing regulations and to increase public understanding of this issue. With a more focused approach to health and human rights, Indonesia can protect the rights of individuals involved in non-criminal drug use while reducing the risks associated with drug use in society.

### 3.2 The Main Implications and Challenges for the Protection of Human Rights in the Case of Non-Criminal Narcotics

Striking a balance between strict narcotics regulations and the protection of human rights in the case of non-criminal narcotics users is a complex and challenging task for governments around the world. On the one hand, strict narcotics regulations may be necessary to protect society from the potential dangers of narcotics, such as drug abuse and misuse.<sup>16</sup> However, on the other hand, it is also important to ensure that these measures do not ignore individual basic rights related to privacy, autonomy and fair treatment under the law. The main implications and challenges that arise in achieving this balance include legal considerations, social impacts, public health, and global policy issues.

One of the implications that arises in creating a balance between strict narcotics regulations and human rights protection is how the government determines the definition of "non-criminal" narcotics. This is directly related to existing laws and regulations. Many countries have narcotics laws that provide criminal penalties for possessing narcotics, even in small quantities or for personal use.<sup>17</sup> For example, in the United States, the Federal Controlled Substances Act (CSA) categorizes narcotics in varying degrees of severity, and has harsh penalties for violations. Although some states in the US have legalized the use of certain narcotics for recreational or medical purposes, the federal use of narcotics is still prohibited.

The main implication of strict regulations is strict law enforcement against narcotics users, including non-criminal narcotics users. This can result in serious consequences for individuals, such as incarceration, trial, and conviction.<sup>18</sup> Therefore, one of the main challenges in striking a balance is how governments decide whether they will impose criminal penalties on individuals who use drugs non-criminally, or whether they will seek other more appropriate alternatives, such as recovery or treatment.

However, the protection of human rights is an important factor in deciding how to deal with non-criminal drug users. One of the relevant human rights is the right to privacy. The European Convention on Human Rights, for example, recognizes the right to privacy and private life (Article 8), which may apply in the context of non-criminal narcotics use. The implication of this right to privacy is that individuals should not be subject to oppression or unlawful surveillance by authorities regarding their personal narcotics use.<sup>19</sup>

Another challenge that arises is the social impact of strict narcotics regulations on non-criminal narcotics users. Violations of the law against individuals who use non-criminal narcotics can lead to social stigma, isolation, and even unemployment. This can have a

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<sup>16</sup> Anggota IKAPI, *UGM Mengajak: Raih Prestasi Tanpa Narkoba* (Yogyakarta: Gajah Mada University Press, 2015).

<sup>17</sup> Buala Zega, *Rekonstruksi Kebijakan Kriminal Bagi Personil Polri Pengguna Narkoba Berbasis Nilai Keadilan (Studi Pada Polda Sumatera Utara)* (Semarang: Universitas Islam Sultan Agung, 2022).

<sup>18</sup> Ricky Gunawan and others, *Mendorong Kebijakan Non-Pemidanaan Bagi Penggunaan Narkotika: Perbaikan Tata Kelola Narkotika Indonesia* (Jakarta: Institute for Criminal Justice Reform, 2021).

<sup>19</sup> Nurliah Nurdin and Astika Ummy Athahira, *HAM, Gender Dan Demokrasi (Sebuah Tinjauan Teoritis Dan Praktis)* (Jatinagor: CV. Sketsa Media, 2022).

detrimental impact on the social and mental well-being of the individual.<sup>20</sup> One of the relevant legislative changes in this context is developments in the legalization or decriminalization of narcotics in several countries and jurisdictions. For example, Portugal is one of the best examples of a country that has decriminalized personal possession of narcotics and focused on a health and recovery approach. In 2001, Portugal adopted a Narcotics Law which stated that personal narcotics holders would no longer be subject to criminal penalties, but would be referred to a health commission that would evaluate whether they needed treatment or support. The result is a decrease in narcotic use, narcotic abuse, and death rates due to overdose. However, the challenge in implementing such an approach is expanding mental health and rehabilitation resources and infrastructure to support individuals who need help. This requires a significant commitment of resources from the government. In addition, there are also global policy issues that arise due to differences in approaches to narcotics between countries. For example, a large number of countries still have strict narcotics regulations, while others have chosen to legalize or decriminalize the use of certain narcotics. This can create an imbalance in narcotics regulations at the international level, affecting international trade and cooperation between countries.

In addition, changes in relevant narcotics regulations may also relate to the International Narcotics Control Treaty. This agreement includes three main conventions that regulate narcotics control at the international level: the 1961 Single Convention on Narcotic Drugs, the 1971 Psychotropic Substances Convention, and the 1988 Narcotics Convention. Countries wishing to change their narcotics regulations must consider the impact of such changes on their obligations under these treaties. Some countries have proposed changes to the treaty's framework to reflect a more progressive approach to narcotics, but the main challenge is negotiating a global agreement that reflects the diversity of countries' views and approaches..

It is also important to note that the narcotics problem is not only limited to non-criminal narcotics use, but also involves issues related to the illegal narcotics trade and organized crime. Therefore, creating a balance between strict narcotics regulations and protecting human rights must also pay attention to efforts to eradicate the illegal narcotics trade which is destroying society. Relevant legislation in this case includes various narcotics and organized crime laws at national and international levels, such as the Narcotics and Dangerous Drugs Control Act in the United States or the United Nations Convention Against Transnational Organized Crime.

Additionally, strict narcotics regulations can also have a significant impact on more vulnerable populations, such as poor individuals, minorities, or people in difficult social or economic circumstances. In some cases, harsh law enforcement against non-criminal drug users can lead to racial and social injustice. For example, in the United States, drug law enforcement has been shown to have a disproportionate impact on minority communities, with higher arrest and conviction rates among blacks and Hispanics.<sup>21</sup> This illustrates another challenge in creating a balance between strict narcotics regulations and human rights protection, namely how to prevent injustice and discrimination in narcotics law enforcement. An alternative approach that is more in line with the protection of human

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<sup>20</sup> Yusril Muslimin, *Faktor Tidak Adanya Putusan Sanksi Rehabilitasi Terhadap Penyalahgunaan Narkotika Oleh Prajurit TNI Ditinjau Dari Hukum Pidana Islam (Studi Di Pengadilan Militer I-04 Palembang)* (Palembang: UIN Raden Fatah, 2022).

<sup>21</sup> Arinta Dea, Astried Permata, and Naila Rizqi Zakiyah, *Yang Terabaikan: Potret Situasi Perempuan Yang Dipenjara Akibat Tindak Pidana Narkotika* (Jakarta: Lembaga Bantuan Hukum Masyarakat, 2019).



rights is to focus on public health and recovery. This includes efforts to provide better access to mental health and rehabilitation services for individuals who have problems with substance use. The relevant laws and regulations in this context are laws that regulate mental health and rehabilitation services, as well as efforts to combat stigmatism regarding the problem of narcotics use. For example, in the United States, the Mental Health Parity and Addiction Equity Act mandates equal protection for mental health and rehabilitation services in health plans.

Apart from that, educating the public about the dangers of narcotics and encouraging prevention of narcotic use are also important elements in creating this balance. This could involve broad education campaigns and changes in school curricula to raise awareness about the risks of drug use. The relevant laws and regulations in this context are laws that regulate health education and narcotics prevention in schools.

When seeking a balance between strict drug regulation and human rights protection, it is important to consider approaches that are evidence-based and involve a wide range of stakeholders, including advocacy groups, health experts, and local communities. Governments must also ensure that their policies are in line with internationally recognized human rights, such as Universal Human Rights, the European Convention on Human Rights, or the United Nations Declaration on Human Rights and Narcotic Drugs.

In a global context, cooperation between countries and international bodies is very important. Countries need to communicate and coordinate to overcome the challenge of narcotics crossing borders. The relevant laws and regulations in this framework are international agreements that regulate international cooperation in combating illegal narcotics, such as the UN Convention on Narcotics and Transnational Organized Crime.<sup>22</sup>

In addition, it is important to continue conducting in-depth research and analysis on the impact of narcotics regulations on society and human rights. This can help in developing more effective and evidence-based policies. The relevant laws and regulations in this case are laws that support research and analysis related to narcotics, such as laws that regulate research institutions and research funding. In conclusion, striking a balance between strict narcotics regulation and human rights protection is a complex and challenging task. Key implications and challenges include legal considerations, social impacts, public health, and global policy issues. An evidence-based approach is needed, involving various stakeholders, and ensuring that the policies taken are in line with internationally recognized human rights. Additionally, it is important to continue conducting research and analysis to inform decision making and develop more effective policies in addressing the narcotics problem.

#### 4. CONCLUSION

In the context of protecting human rights in cases of non-criminal narcotics use in Indonesia, legislation plays an important role in determining the approach taken by the state. Although there are laws that provide a legal basis for rehabilitation rather than punishment, such as the Narcotics Law and the Mental Health Law, challenges such as abuse of power and social stigma still hinder effective implementation. To increase the protection of the rights of individuals involved in this problem, there needs to be cooperation between the government, NGOs and civil society in ensuring good implementation of existing regulations, as well as better public education about human

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<sup>22</sup> Paulus Rudolf Yuniarto, 'Masalah Globalisasi Di Indonesia', *Jurnal Kajian Wilayah*, 5.1 (2015), 67-95.

rights and the impact of narcotics use. With a more focused approach to health and human rights, Indonesia can reduce the risks associated with drug use while protecting the rights of the individuals involved. Striking a balance between strict narcotics regulations and human rights protection in the case of non-criminal narcotics users is a complex task and requires careful consideration of legal, social, public health and global policy impacts. Key implications include how to define "non-criminal" narcotics, tough law enforcement against non-criminal narcotics users, as well as efforts to maintain individual privacy. Challenges include avoiding racial and social injustice in drug law enforcement, as well as maintaining a balance between strict drug regulations and protecting individual rights. An evidence-based approach, involving multiple stakeholders, and coordinating at the international level is needed to address the drug problem more effectively and with respect for human rights. It is also important to continue conducting research and analysis to support better policy making in dealing with the narcotics problem.

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