



# Implementation Double-Track System Criminal Sanctions and Rehabilitation Against Narcotic Abusers

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## Abstract

**Introduction:** The application of sanctions is regulated in Law no. 35 of 2009 concerning Narcotics, which tends to impose criminal sanctions, does not have an impact, in fact there are more narcotics abusers. In accordance with the mandate of Law no. 35 of 2009 concerning narcotics, addicts and victims of narcotics abuse are entitled to rehabilitation, both medical rehabilitation and social rehabilitation. In general, addicts and victims of narcotics abuse have not been able to access rehabilitation services, especially addicts and victims of narcotics abuse who are in prisons or detention centers.

**Purposes of the Research:** focus of the formulation in this research is How to Analyze the Meaning of Medical Rehabilitation Obligations for Narcotics Addicts?.

**Methods of the Research:** The method used in this research is the normative juridical method and the law approach as well as the conceptual approach. They are in medical rehabilitation and/or social rehabilitation institutions.

**Results of the Research:** Researchers suggest to the Government and the DPR to add explanations for narcotics addicts in Article 54 of Law Number 35 of 2009 concerning Narcotics, by including the amount of medical rehabilitation financing provided to narcotics addicts in Law Number 35 of 2009 concerning Narcotics. Prior to the promulgation of the amount of medical rehabilitation financing, regarding the provision of medical rehabilitation for narcotics addicts it will be easier to implement, and for the public to increase participation in the prevention of narcotics addicts and accessibility to the settlement of litigation and non-litigation cases.

## 1. INTRODUCTION

The implementation of the Double-track system is the application of criminal sanctions and action sanctions that are used to create a sense of justice <sup>1</sup>. Although both are different things, in criminal sanctions the basic idea is taken from why a sentence is held, while action sanctions are taken from the basic idea of what a crime is for <sup>2</sup>. Combining this concept is certainly not easy because there are two different goals. However, if you look at the final goal in the Criminal Code itself, which is to see the benefits and repair the damage that exists in society, then the Double-track system is very appropriate to do.<sup>3</sup> The

<sup>1</sup> Ahmad Aditya Putra Utama and Heru Suyanto, "Implementation of Double Track System in Conviction Towards Special Expertise Crime," *Ius Poenale* 2, no. 1 (2021): 1-20.

<sup>2</sup> Mahrus Ali, *Dasar-Dasar Hukum Pidana* (Sinar Grafika, 2022).

<sup>3</sup> Aziz Syamsuddin, *Tindak Pidana Khusus*, Sinar Grafika, Jakarta, 2011, h. 65.

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implementation of the Double-track system, both criminal and criminal acts of Narcotics Abuse, is the right choice because the problem of narcotics abuse is not only a state problem for Indonesia but also for the international community<sup>4</sup>. This issue becomes very important considering that narcotic drugs are drugs that affect physical and mental health, and if used in the right dosage and under the supervision of a doctor or psychiatrist, they can be used for medical or research purposes, but if misused or used inappropriately with standard treatment can be dangerous<sup>5</sup>. The application of sanctions regulated in Law no. 35 of 2009 concerning narcotics is quite severe, however, in reality, the perpetrators of crimes are increasing, and for the convicts in reality it is not a deterrent and there is a tendency to repeat it. This can be caused by the factor of imposing a crime by a judge that does not have an impact or deterrent effect on the perpetrators. So far, judges have tended to prioritize criminal sanctions which are commensurate with the actions of the perpetrators, with the aim that the perpetrators do not repeat their actions. This paradigm is certainly not suitable when dealing with crimes involving drug abuse. Because in narcotics abuse, perpetrators (narcotics addicts) are not only positioned as perpetrators of crimes, but also as victims<sup>6</sup>. This is because narcotics addicts are "self victimizing victims" (victims as perpetrators). After all, narcotics addicts suffer from dependence syndrome as a result of their drug abuse<sup>7</sup>. Law no. 35 concerning Narcotics regulates the rehabilitation of narcotics addicts which is regulated in Articles 54, 56, 103, and 127 while Article 103 regulates the authority of judges to impose sanctions for someone who is proven to be a narcotics addict to undergo rehabilitation. From this authority, it is implied that narcotics addicts, apart from being perpetrators of criminal acts are also victims of the crime itself which in terms of victimology is often referred to as Self Victimization or Victimless Crime<sup>8</sup>. Law no. 35 of 2009 concerning Narcotics can be said to be perpetrators of criminal acts (dader) and also victims of criminal acts (victims). Addicts are victims of narcotics crime abuse that violates government regulations, and they are all Indonesian citizens who are expected to be able to build this country from adversity in almost all fields.

Concerning the problem of narcotics abuse, a criminal law policy is needed that positions narcotics addicts as victims, not perpetrators of crime. Narcotics addicts are "self victimizing victims" because narcotics addicts suffer from dependence syndrome as a result of their drug abuse<sup>9</sup>. Taking into account that most of the prisoners or prisoners in narcotics cases are categorized as users or even victims, which if viewed from the aspect of their health are people who are sick, therefore imprisoning the person concerned is not the right step<sup>10</sup>. Then the Supreme Court with the benchmark The provisions of Article 103 of the Narcotics Law take a step forward in building the paradigm of stopping criminalization or decriminalization of narcotics addicts by issuing a Circular Letter of the Supreme Court

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<sup>4</sup> Carto Nuryanto, "Reconstruction Of The Criminal Sanction Policy And Action (Double Track System) In Law Enforcement For Narcotic Crime Prevention Reffered To Religious Justice," *Jurnal Pembaharuan Hukum* 5, no. 3 (2018): 339-51.

<sup>5</sup> Wilson M Compton and Nora D Volkow, "Abuse of Prescription Drugs and the Risk of Addiction," *Drug and Alcohol Dependence* 83 (2006): S4-7.

<sup>6</sup> Weni Safitri Ismail, Erdianto Effendi, and Mexsasai Indra, "Perlindungan Terhadap Korban Sekaligus Pelaku Pada Tindak Pidana Penyalahgunaan Narkotika Berdasarkan Putusan Nomor. 104/Pid. B/2014/PN. BJ" (Riau University, 2016).

<sup>7</sup> Abdul Majid, *Bahaya Penyalahgunaan Narkotika* (Alprin, 2020).

<sup>8</sup> Amira Paripurna et al., *Viktimologi Dan Sistem Peradilan Pidana* (Deepublish, 2021).

<sup>9</sup> Megawati Marcos, "Tinjauan Yuridis Tentang Pemidanaan Terhadap Pecandu Narkotika" (UAJY, 2014).

<sup>10</sup> Muhammad Teguh Safi'i, Jawade Hafidz, and Maryanto Maryanto, "The Policy Authority of Police in Implementing Rehabilitation Actions Ont Narcotics Users," *Law Development Journal* 4, no. 1 (2022): 116-23.

(SEMA) Number 4 of 2010 concerning the determination of abusers and Narcotics Addicts to the Institute for Medical Rehabilitation and Social Rehabilitation.

Rehabilitation patients usually suffer from low self-esteem and a lack of a positive outlook on life, therefore psychology plays a very large role in rehabilitation programs, and it is also very important to keep patients from friends and environments that allow addiction to drugs again<sup>11</sup>. The narcotics rehabilitation program is a series of coordinated and integrated efforts, consisting of medical efforts, mental guidance, psychosocial, religious, educational and vocational training to improve self-adjustment, independence and self-help efforts and achieve functional abilities by their potential physically, mentally, socially, and economically. In the end, they are expected to be able to overcome the problem of drug abuse and return to interacting with the community in a normal way<sup>12</sup>. Following the mandate of Law no. 35 of 2009 concerning narcotics, addicts, and victims of narcotics abuse have the right to get rehabilitation, both medical rehabilitation and social rehabilitation. In general, addicts and victims of narcotics abuse have not been able to access rehabilitation services, especially addicts and victims of narcotics abuse who are in correctional institutions or detention centers (prisons or orangutans). In principle, addicts and victims of narcotics abuse are “sick people” who are obliged to undergo treatment by placing them in medical rehabilitation and/or social rehabilitation institutions<sup>13</sup>. Medical rehabilitation is carried out in hospitals appointed by the Minister of Health, while social rehabilitation for narcotics addicts is carried out in social rehabilitation institutions appointed by the Minister of Social Affairs<sup>14</sup>. The essence of rehabilitation is to improve and restore the condition of narcotics users or addicts to produce a way out for healing the victims of the abuse<sup>15</sup>. The implementation of the rehabilitation itself cannot be separated from financing problems. This condition is certainly burdensome for the state because so far the state continues to have to bear the costs, especially for recidivists. The regulation on standardization of medical rehabilitation obligations and restrictions on financing for narcotics abuse borne by the State is still considered unclear so in its implementation it also seems that there is no clarity of standards even though rehabilitation is aimed at victims of narcotics abuse to restore or develop the physical, mental and social abilities of sufferers who suffer from abuse. concerned is necessary. Based on the background of the above, the researcher will see how the Double Track System Implementation of Criminal Sanctions and Rehabilitation Against Applicants of Narcotics Users?

## 2. METHOD

This research uses a normative study method, namely an approach based on the main legal material by examining theories, concepts, legal principles, and positive legislation in force. In addition, this research also uses a statutory approach and a conceptual approach to problems regarding the rehabilitation period for narcotics abusers in Indonesia. The

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<sup>11</sup> Soetji Andari, “Efektivitas Pelaksanaan Rehabilitasi Terhadap Korban Penyalahgunaan Narkotika,” *Jurnal Penelitian Kesejahteraan Sosial* 18, no. 3 (2019): 245–56.

<sup>12</sup> Ida Bagus Putu Swadharma Diputra, “Kebijakan Rehabilitasi Terhadap Penyalah Guna Narkotika Pada Undang Undang Nomor 35 Tahun 2009 Tentang Narkotika,” *Jurnal Magister Hukum Udayana* 2, no. 1 (2012): 44098.

<sup>13</sup> Elpina Elpina and Mariah Sonanggok Purba, “The Narcotics Abuse Term Weaknesses in Criminal Law Enforcement Of Indonesia,” *Jurnal Pembaharuan Hukum* 8, no. 1 (2021): 34–47.

<sup>14</sup> Mohamad Fajar, “Penerapan Rehabilitasi Medis Dan Rehabilitasi Sosial Atas Penyalahgunaan Narkotika Bagi Diri Sendiri,” *Jurnal Sosial Teknologi* 2, no. 5 (2022): 406–17.

<sup>15</sup> Jumriani Nawawi et al., “Reformulation of Medical Rehabilitation against Victims of Narcotics Abuse in Indonesia,” *Medico Legal Update* 21, no. 1 (2021): 401–5.

statutory approach is carried out by looking at the laws and regulations related to the formulation of the problem. The conceptual approach is used to obtain clarity and scientific truth on legal concepts that are sourced from legal principles. The sources of legal materials in this scientific work are primary legal materials and secondary legal materials. Primary legal materials are legal principles and rules in the form of statutory regulations and secondary legal materials are supporting materials such as law books, legal journals, and so on. To analyze the legal materials that have been collected, an analysis is carried out and the results of the analysis are compared with several existing approach methods, then re-analyzed and reconstructed through various descriptive statements.

### 3. RESULTS AND DISCUSSION

#### 3.1 General Concept Of Double Track System Criminal Sanctions

The development of criminal law amid the nuances of legal reform encourages a shift in the orientation of punishment which places more emphasis on improving the perpetrators, not aiming for Kantian-style retaliation. However, as Gaber and McAnany argue, that crime is very important and cannot be removed amid hegemony of action (guidance or improvement of perpetrators), because excessive rehabilitation without criminal sanctions is a form of pampering the perpetrators<sup>16</sup>. It is this thinking that encourages the emergence of ideas or ideas about equality between criminal sanctions and action sanctions<sup>17</sup>, known as the double-track system. This double track idea does not fully use one between criminal sanctions and actions, where the two sanctions are placed equally or in a balanced manner<sup>18</sup>.

This double track idea is in line with the idea of reforming the national criminal law which is based on the idea of balance based on the philosophy of social justice according to Pancasila<sup>19</sup>. Based on the philosophy of balance, crime is seen as a form of disturbance to balance, harmony, and harmony in people's lives which results in individual and community damage. So punishment is a public reaction that aims to restore the damaged balance, harmony, and harmony as a result of a crime<sup>20</sup>. The idea of a double-track system that carries out criminal actions and sanctions equally is a concept of modern criminal law that is oriented to *daaddaader strafrecht*, which is also in harmony with the ideals of the embodiment of the monodualistic principle in the form of a balance between the interests of the perpetrator, victim, and society through criminal law. Criminal sanctions in the double-track system are a manifestation of protection for the community, which von Feuerbach calls general prevention<sup>21</sup>.

Meanwhile, action sanctions in the double-track system function as special prevention, namely so that the perpetrator does not repeat his actions in the future through repairs to

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<sup>16</sup> Muhammad Sholehuddin, "Sistem Sanksi Dalam Hukum Pidana: Ide Dasar Double Track System & Implementasinya," 2003.

<sup>17</sup> Dwidja Priyatno, *Sistem Pelaksanaan Pidana Penjara Di Indonesia* (Refika Aditama, 2006).

<sup>18</sup> Appludnopsanji Appludnopsanji and Ani Purwanti, "Double Track Criminal System of Indonesia: Criminal Sanction and Chemical Castration Treatment Policy on Pedhophilia?," *Diponegoro Law Review* 6, no. 1 (n.d.): 17-32.

<sup>19</sup> Fasichatus Sakdiyah, "Model Double Track System Pidana Terhadap Pelaku Penyalahgunaan Narkotika" (Universitas 17 Agustus 1945 Surabaya, 2021).

<sup>20</sup> Yaris Adhial Fajrin and Ach Faisol Triwijaya, "Arah Pembaharuan Hukum Pidana Indonesia Di Tengah Pluralisme Hukum Indonesia," *Ekspose: Jurnal Penelitian Hukum Dan Pendidikan* 18, no. 1 (2019): 734-40.

<sup>21</sup> Eddy O S Hiariej, *Prinsip-Prinsip Hukum Pidana* (Cahaya Atma Pustaka, 2016).



the perpetrator<sup>22</sup>. The purpose of the idea of a double-track system is also reflected in Law Number 12 of 1995 concerning Corrections, which describes both politically and philosophically the direction of sentencing through the means of Indonesian criminal law which is guided by Pancasila as the ideal foundation of the Indonesian nation.

### 3.2 Implementation of Criminal Sanctions On Narcotics Implementation of Criminal Sanctions On Narcotics.

Narcotics abuse is a fairly complex issue, starting from the legal process to the victim's recovery process<sup>23</sup>. Legal issues, because they are related to Law Number 35 of 2009 concerning Narcotics. On the one hand, a violation of the law is a criminal act and on the other hand, victims of drug dependence are required to undergo treatment and rehabilitation. The criminalization of narcotics abuse cannot be separated from the existence of views or thoughts that previously dominated the formation and application of criminal law rules<sup>24</sup>. The idea of criminalizing narcotics abuse begins with the assumption that narcotics are only for treatment and for the sake of science<sup>25</sup>, so if there are actions outside of these interests, it is already a crime considering the magnitude of the consequences arising from the use of illegal narcotics is very dangerous for the human soul<sup>26</sup>. The provisions for narcotics crime (the form of the crime committed and the threat of criminal sanctions for the perpetrators) as regulated in Law Number 35 of 2009 are contained in more than 30 articles, namely Article 116 and Article 121, and Article 127 of Law Number 35 of 2009. Law Number 35 of 2009 was issued which also regulates the provisions regarding the decision order to undergo rehabilitation for narcotics users in Articles 54 and 103:

#### Article 54

Narcotics addicts and victims of narcotics abuse are required to undergo medical rehabilitation and social rehabilitation.

#### Article 103

- 1) Judges examining narcotics addict cases may: a. Decide to order the person concerned to undergo treatment and/or treatment, if the narcotic addict is proven guilty of committing a narcotic crime; or b. To stipulate to order the person concerned to undergo treatment and/or treatment, if the narcotic addict is not proven guilty of committing a narcotic crime.
- 2) The period of undergoing treatment and/or treatment for narcotics addicts as intended

### 3.3 Implementation Of Rehabilitation Sanctions

Rehabilitation is restoration to a former position or good name or repair of disabled limbs, and so on for individuals such as hospital patients or disaster victims so that they become useful human beings and have a place in society<sup>27</sup>. Rehabilitation is a form of

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<sup>22</sup> Sakdiyah, "Model Double Track System Pidana Terhadap Pelaku Penyalahgunaan Narkotika."

<sup>23</sup> Muslikan Muslikan and Muhammad Taufiq, "Pelaksanaan Assesmen Tentang Rehabilitasi Terhadap Korban Penyalahgunaan Narkotika Ditinjau Dari Peraturan Perundang-Undangan," *Jurnal Ilmiah Living Law* 11, no. 1 (2019): 61–80.

<sup>24</sup> S H Muhammad Hatta, *Penegakan Hukum Penyalahgunaan Narkotika Di Indonesia* (Prenada Media, 2022).

<sup>25</sup> Nancy D Campbell, *Discovering Addiction: The Science and Politics of Substance Abuse Research* (University of Michigan Press, 2007).

<sup>26</sup> Meditiyo Prakoso, "Konsep Perantara Tindak Pidana Narkotika Sebagai Tindak Pidana Transnasional Dalam Hukum Pidana Indonesia" (UNIVERSITAS AIRLANGGA, 2015).

<sup>27</sup> Siti Hidayatun and Yeni Widowaty, "Konsep Rehabilitasi Bagi Pengguna Narkotika Yang Berkeadilan," *Jurnal Penegakan Hukum Dan Keadilan* 1, no. 2 (2020).

sentencing that aims at recovery or treatment<sup>28</sup>. Rehabilitation is a semi-closed facility, meaning that only certain people with special interests can enter this area<sup>29</sup>. Rehabilitation for prisoners in correctional institutions is a place that provides skills and knowledge training to avoid narcotics<sup>30</sup>.

In the opinion of researchers, rehabilitation is one of the efforts to restore and restore conditions for abusers and victims of narcotics abusers so that they can return to carrying out their social functions, namely being able to carry out activities in society normally and fairly. The increasing number of victims of narcotics abusers makes the role of therapy and rehabilitation for narcotics victims important and strategic<sup>31</sup>. For this reason, the field of therapy and rehabilitation is asked to be proactive and continue to seek breakthroughs so that their role becomes effective. A prison system that emphasizes the element of deterrence and the use of its point of view toward prisoners as individuals certainly does not bring maximum benefits to the concept of a correctional institution<sup>32</sup>. HAM. Law no. 35 of 2009, states there are two types of rehabilitation, One is Medical Rehabilitation, which is an integrated process of treatment activities to free addicts from narcotics dependence. The notion of medical rehabilitation is a new field of specialization in medical science, which relates to the comprehensive management of patients with impaired function or injury (impairment), loss of function, or disability, originating from the musculoskeletal system (musculoskeletal), the nervous system (neuromuscular), as well as mental, social, and work disorders that accompany the disability<sup>33</sup>.

The long-term goal is that the patient immediately gets out of bed and can walk without or with equipment and at least be able to care for himself. In the short term, where the patient can live again in the community, at least be able to take care of himself, ideally, and can return to his original or close life activities. The second is Social Rehabilitation according to Law no. 35 of 2009 concerning Narcotics Social rehabilitation is a process of integrated recovery activities, both physical, mental, and social, so that narcotics prisoners can return to carrying out their social functions in community life. Social rehabilitation is intended concerning services to individuals who need special services in the social field, namely increasing social skills, preventing social skills from declining, or being more severe than previous social conditions.

Psychotropic abusers basically if they experience addiction can be given rehabilitation in the form of medical rehabilitation and social rehabilitation. The legal basis for undergoing medical rehabilitation and social rehabilitation is in Law Number 5 of 1997 concerning Psychotropics Article 39 paragraph (2). The definition of medical rehabilitation is not explained in Law Number 5 of 1997 concerning Psychotropics, but in other laws or regulations, it is explained about the meaning of medical rehabilitation, which is contained in Article 1 number 16 of Law Number 35 of 2009 concerning Narcotics which means it is a process integrated treatment to free addicts from drug dependence. Medical rehabilitation

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<sup>28</sup> Richard C Boldt, "Rehabilitative Punishment and the Drug Treatment Court Movement," *Wash. ULLQ* 76 (1998): 1205.

<sup>29</sup> Dewi Khoer Mulyana, Hendi Suhendraya Muchtar, and Sayid Muhammad Rifqi Noval, "Social Rehabilitation Management For Victims Of Drugs Abuse Through Vocational Education," *International Journal of Educational Research & Social Sciences* 3, no. 2 (2022): 690-701.

<sup>30</sup> Faye S Taxman and Steven Belenko, *Implementing Evidence-Based Practices in Community Corrections and Addiction Treatment* (Springer, 2011).

<sup>31</sup> Ranu Mahesti, "Pendampingan Rehabilitasi Bagi Pecandu Dan Korban Penyalahgunaan Narkotika," *Lembaran Masyarakat: Jurnal Pengembangan Masyarakat Islam* 4, no. 1 (2018): 51-69.

<sup>32</sup> Alan H Goldman, "Toward a New Theory of Punishment," *Law and Philosophy* 1, no. 1 (1982): 57-76.

<sup>33</sup> Hening Laswati, Alit Pawana, and Lydia Arfianti, "Ilmu Kedokteran Fisisk Dan Rehabilitasi," n.d.

measures are carried out at rehabilitation facilities, both organized by the government and privately appointed by the Minister of Health, including <sup>34</sup>:

1) Medical Rehabilitation

Medical rehabilitation according to RI Law No. 35 of 2009 is a process of integrated treatment activities to free addicts from narcotics dependence. Medical rehabilitation is carried out in hospitals indicated by the minister of health based on the Regulation of the Minister of Health of the Republic of Indonesia Number 2415/Menkes/Per/XII/2011 concerning Medical Rehabilitation of Addicts, Abusers and Victims of Narcotics Abuse. Medical rehabilitation is a process of integrated treatment activities to free addicts from narcotics dependence.

2) Regulation of the Minister of Health of the Republic of Indonesia Number 50 of 2015 concerning Technical Guidelines for Compulsory Reporting and Medical Rehabilitation for Addicts, Abusers, and Victims of Narcotics Abuse

3) Law Number 36 the Year 2009 concerning Health

4) Joint Regulation of the Chief Justice of the Republic of Indonesia, the Minister of Law and Human Rights of the Republic of Indonesia, the Minister of Health of the Republic of Indonesia, the Minister of Social Affairs of the Republic of Indonesia, the Attorney General of the Republic of Indonesia, the Head of the State Police of the Republic of Indonesia and the Head of the National Narcotics Agency of the Republic of Indonesia Number: 01/ PB/MA/III/2014, Number: 03 of 2014, Number: 11/2014, Number: 03 of 2014, Number: PER-005/A/JA/03/2014, Number: 1 of 2014, Number: PERBER/01/III/2014/BNN Concerning the Handling of Narcotics Addicts and Victims of Narcotics Abuse in Rehabilitation Institutions.

From the several legal grounds above, in principle, rehabilitation According to Law Number 35 of 2009 concerning Narcotics, rehabilitation is divided into two types, which include:

a) Medical Rehabilitation is a process of integrated treatment activities to free addicts from narcotics dependence. Medical rehabilitation for narcotics addicts can be carried out in hospitals appointed by the minister of health. These are hospitals that are run by the government and by the community. In addition to treatment or care through medical rehabilitation, the healing process for narcotics addicts can be carried out by the community through religious and traditional approaches.

b) Social Rehabilitation is a process of integrated recovery activities both physically, mentally, and socially so that ex-narcotics addicts can return to carrying out their social functions in people's lives. What is meant by ex-narcotics addicts here are people who have recovered from dependence on narcotics physically and psychologically. Social rehabilitation of ex-narcotics addicts can be carried out at social rehabilitation institutions appointed by the Minister of Social Affairs. Namely social rehabilitation institutions organized by both the government and the community. This rehabilitation measure is a repressive response, that is, a response that is carried out after a crime has occurred, in this case, narcotics, in the form of coaching or treating narcotics users. inspection level<sup>35</sup>. Furthermore, the Public Prosecutor for prosecution and the Judge for examination in court may request assistance from the local Integrated Assessment Team to conduct an assessment of the defendant, meaning that it is the Prosecutor and

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<sup>34</sup> Gatot Supramono, "Hukum Narkoba Indonesia," 2004, 192.

<sup>35</sup> Fatin Hamamah, "Rehabilitation On Victims Of Drugs Abuse In Judicial Development," *International Journal of Law Reconstruction* 5, no. 2 (2021): 354–66.

Judge who request assistance to first conduct an assessment of the defendant. This assessment assistance is carried out based on BNN Regulation 11 of 2014 and the results are submitted to the Prosecutor or Judge with the Minutes of Submission of the recommendation of the assessment results. Although the BNN regulation Number 11 of 2014 is a technical guideline for investigators (investigation level) to request placement of rehabilitation for a suspect/defendant after an assessment has been carried out, at the level of prosecution or examination in court, the prosecutor or judge can request an assessment from the Integrated Assessment Team which The method is based on BNN Regulation No. 11 of 2014 concerning Procedures for Handling Suspects or Defendants of Narcotics Addicts and Victims of Narcotics Abusers in Rehabilitation Institutions.

The term "user" is a person who uses, if it is related to the definition of narcotics as regulated in Article 1 point 1 of the Narcotics Law, it can be related that Narcotics Users are people who use substances or drugs that taste from plants, both synthetic and synthetic. semi-synthetic which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can cause dependence, which is distinguished into groups as attached in Law no. 35 of 2009 concerning Narcotics. Narcotics addicts are "self victimizing victims" because narcotics addicts suffer from dependence syndrome as a result of their drug abuse.<sup>36</sup> According to the Indonesian dictionary, the term "user" is a person who uses, if it is related to the definition of narcotics as regulated in Article 1 point 1 of the Narcotics Law, it can be related that Narcotics Users are people who use substances or drugs that taste from plants, both synthetic and synthetic. semi-synthetic which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can cause dependence, which is distinguished into groups as attached in Law no. 35 of 2009 concerning Narcotics. Narcotics addicts are "self victimizing victims" because narcotics addicts suffer from dependency syndrome as a result of their abuse of narcotics<sup>37</sup>. The implementation of the double-track system in Narcotics abuse has been carried out but there are still many shortcomings, the same understanding so far is that many abusers should only receive criminal sanctions where rehabilitation must be carried out but only gets criminal sanctions even though the perpetrators are also mostly drug users who are drug abusers who have experienced dependence on one or more narcotics, psychotropic substances, and other addictive substances (drugs), both physically and psychologically. Drug addiction is the urge to use drugs continuously, and when they use is stopped, withdrawal symptoms occur. The severity of withdrawal symptoms depends on the type of drug, the dose used, and the duration of use. The higher the dose used and the longer the use, the more severe the symptoms of the illness. Apart from regulating legal sanctions, Law no. 35 of 2009 also states that drug addicts should undergo treatment and care. The process of rehabilitation therapy carried out can be carried out in government institutions. Not only care and treatment, but drug addicts also should report their status as drug addicts to the relevant agencies.

The purpose of this report is to provide the right to care and treatment that must be given to drug addicts. Narcotics dealers in legal terminology are categorized as fathers, while users can be categorized as either perpetrators or victims. According to Law no. 35 of 2009 concerning Narcotics, the essence of users is people who use substances or drugs derived from plants, both synthetic and semi-synthetic which can cause a decrease or

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<sup>36</sup> Zelni Putra, "Upaya Rehabilitasi Bagi Penyalahguna Narkotika Oleh BNNK Padang", Skripsi, Universitas Andalas, Padang, 2011, h. 2.

<sup>37</sup> Ratih Proboiwi and Daud Bahransyaf, "Pecandu Narkotika, Antara Penjara Atau Rehabilitasi," *E-Journal Kemosos, Sosio Informa: Kajian Permasalahan Sosial Dan Usaha Kesejahteraan*, 2014.



change in consciousness, loss of pain, and can cause dependence, which is distinguished into groups as attached in the Act. No. 35 of 2009 concerning Narcotics. In Law no. 35 of 2009 concerning Narcotics, user provisions are regulated in Articles 116, 121, 126, 127, 128, and 134. Regulations relating to narcotics contain a double track system, this can be seen in Law no. 35 of 2009 concerning Narcotics has regulated the treatment and rehabilitation of narcotics addicts, which is called medical rehabilitation and social rehabilitation. Based on Article 54 of Law no. 35 of 2009 it is clearly stated that this law in principle protects and pays attention to the condition of narcotics addicts because this article "requires" narcotics addicts and victims of narcotics abuse to undergo medical rehabilitation and social rehabilitation. The word "mandatory" in the article certainly implies that addicts are forced by the government to carry out rehabilitation at a cost borne by the government alone.<sup>38</sup>

Narcotics addicts who are undergoing a judicial process may be placed in medical rehabilitation and/or social rehabilitation institutions that are under the authority of investigators, public prosecutors, or judges by the level of examination after obtaining a recommendation from a team of doctors. The obligation to undergo medical rehabilitation and or social rehabilitation also applies to narcotics addicts who are ordered based on a court decision if the narcotics addict is proven guilty of committing a narcotic crime or a court order if the narcotic addict is not proven guilty of committing a narcotic crime.

#### 4. CONCLUSION

After looking at the entire description in the discussion above, the author concludes that the Analysis of the Meaning of the Obligation of Medical Rehabilitation Against Narcotics Addicts Rehabilitation arrangements for narcotics abusers and addicts according to Law Number 35 of 2009 concerning Narcotics are applied penal and non-penal where "dealers" and abusers or users will be subject to criminal sanctions, for addicts and victims of narcotics abusers based on Article 127 of Law Number 35 of 2009 will be subject to medical and social rehabilitation obligations where the rehabilitation period will be calculated the same as serving a sentence given the severity of narcotics trafficking in Indonesia, so that one of the considerations that must be held by the competent authorities, especially the government and legislative institutions that make laws, is the value of the young generation of the nation's successors who are threatened by narcotics. Crime is not only intended as a deterrent effect, a frightening effect, and a relative effect but also aims to protect the future of a nation from narcotics crimes. Because the rehabilitation agency does not provide a budget for it due to the limited funds available.

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<sup>38</sup> Aziz Syamsuddin, *Tindak Pidana Khusus*, Sinar Grafika, Jakarta, 2011, h. 96.

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