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LEGAL POLICY ON THE IMPOSITION OF REHABILITATION MEASURES FOR VICTIMS OF NARCOTICS MISUSE BASED ON UTILITARIAN JUSTICE

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ABSTRACT

The legal treatment of victims of narcotics misuse remains a significant issue in Indonesian criminal law because rehabilitation is legally recognized but its implementation is still influenced by differences in classification, assessment, institutional coordination, and law-enforcement perspectives. This study aims to analyze utilitarian justice as the philosophical basis for rehabilitation measures, examine their implementation through the dimensions of legal substance, legal structure, and legal culture, and analyze rehabilitation policy through the formulation, application, and execution stages of criminal law policy. This research uses normative legal research with statutory, conceptual, and comparative approaches. Legal materials are analyzed qualitatively through grammatical, systematic, and teleological interpretations, while comparative analysis examines rehabilitation policies in Portugal, Malaysia, and Singapore. The results show that rehabilitation is consistent with Bentham's utilitarian justice when it produces greater benefits than imprisonment through recovery, relapse prevention, social reintegration, and protection of society without eliminating legal responsibility. Its effectiveness depends on clear legal classification, early integrated assessment, coordinated institutional implementation, reasoned prosecutorial and judicial decisions, appropriate medical and social treatment, and post-rehabilitation supervision. The comparative analysis shows that treatment-oriented policies can coexist with firm enforcement against illicit trafficking through differentiated legal pathways, community-based rehabilitation, and continued supervision. The novelty of this study is the formulation of a continuous rehabilitation legal-policy model that connects accurate classification, integrated assessment, reasoned legal decision-making, individualized rehabilitation, periodic evaluation, post-rehabilitation supervision, and social reintegration as a continuous criminal law policy process.

A. Introduction

Narcotics have legitimate functions in healthcare and scientific development, but their misuse may cause dependence, health problems, family disruption, loss of employment, and broader social consequences. Indonesian narcotics law therefore requires a distinction between persons involved in illicit production or trafficking and persons who use narcotics because of dependence or become

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victims of narcotics misuse.[1] This distinction is important because an inaccurate classification may lead to a legal response that does not correspond with the person's role, degree of fault, and treatment needs.

Law Number 35 of 2009 concerning Narcotics recognizes different legal categories of narcotics users and provides rehabilitation as one of the available legal responses. Article 54 requires narcotics addicts and victims of narcotics misuse to undergo medical and social rehabilitation, Article 103 authorizes judges to order treatment or care through rehabilitation, and Article 127 regulates narcotics abuse for personal use. Rehabilitation consequently functions not merely as an alternative to imprisonment but as a treatment measure directed toward persons whose circumstances indicate dependence or victimization.[2] Medical rehabilitation addresses physical and psychological dependence, while social rehabilitation seeks to restore behaviour, family relationships, working capacity, and social functioning. The effectiveness of these two forms of rehabilitation depends on their continuity and their connection with social reintegration.[3]

The implementation of these provisions depends heavily on accurate classification during the criminal justice process. The discovery of narcotics in a person's possession does not by itself establish involvement in illicit trafficking. The purpose of possession, history of use, quantity and type of narcotics, health condition, source of the substance, and possible connection with trafficking networks must be examined together. An integrated assessment is therefore important because it combines legal, medical, and psychosocial examinations to determine the person's status, degree of dependence, and possible involvement in illicit distribution.[4] Assessment results should form part of the considerations of investigators, public prosecutors, and judges rather than serve merely as an administrative document.

Rehabilitation is also connected with the protection of human rights. Criminal law enforcement must consider human dignity, health conditions, procedural safeguards, and proportionality between the conduct and the legal response.[5] Imprisonment imposed on a person whose dominant condition is narcotics dependence may fail to address the cause of repeated use and may produce additional health and social consequences. This issue has become increasingly important following

[1] Muhamad Chanif, "Strategi Pemerintah Dalam Menangani Dan Merehabilitasi Pengedar Narkotika Dan Korban Dari Narkotika Di Indonesia," *Jurnal Hukum Progresif* 11, no. 1 (2023): 45–57, https://doi.org/10.14710/jhp.11.1.45-57

[2] Fatin Hamamah, "Rehabilitation on Victims of Drugs Abuse in Judicial Development," *International Journal of Law Reconstruction* 5, no. 2 (2021): 354–366, https://doi.org/10.26532/ijlr.v5i2.17923

[3] Indrawienny Panjiyoga and Amad Sudiro, "An Analysis of The Application of Medical Rehabilitation & Social Rehabilitation for People Convicted of Drug Abuse," *Law Development Journal* 6, no. 3 (2024): 358–375, https://doi.org/10.30659/ldj.6.3.358-375

[4] Riki Afrizal and Upita Anggunsuri, "Optimalisasi Proses Asesmen Terhadap Penyalahguna Narkotika Dalam Rangka Efektivitas Rehabilitasi Medis Dan Sosial Bagi Pecandu Narkotika," *Jurnal Penelitian Hukum De Jure* 19, no. 3 (2019): 259–268, https://doi.org/10.30641/dejure.2019.V19.259-268

[5] Wawan Edi Prastiyo, "The Reconstruction of Rehabilitation for Addictives and Drug Abuses in Human Rights Perspective," *International Journal of Research in Business and Social Science* 11, no. 1 (2022): 379–389, https://doi.org/10.20525/ijrbs.v11i1.1683

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the enactment of Law Number 1 of 2023 concerning the National Criminal Code and Law Number 1 of 2026 concerning Criminal Adjustment. Articles 609 and 610 of the National Criminal Code regulate narcotics offences, while the rehabilitation provisions under Law Number 35 of 2009 remain relevant for addicts and victims of narcotics misuse. These regulations must therefore be interpreted consistently so that developments in criminal sanctions do not eliminate the treatment function of rehabilitation.

Jeremy Bentham's utilitarian theory provides a philosophical basis for evaluating the choice between imprisonment and rehabilitation. Utilitarian justice considers whether a legal measure produces greater benefits than the harm or suffering resulting from its application. In cases involving victims of narcotics misuse, imprisonment may restrict liberty and serve a preventive function, but it may also contribute to deteriorating health, disruption of family and employment relationships, pressure on correctional institutions, and continued exposure to criminal environments.[6] Rehabilitation follows a different direction because it seeks to reduce dependence, restore physical and psychological health, prevent repeated narcotics use, and support social reintegration. From a utilitarian perspective, rehabilitation may therefore be justified when these benefits outweigh the harms associated with imprisonment.

The use of rehabilitation nevertheless requires careful legal application. Judges should identify whether the defendant is an abuser for personal use, an addict, a victim of narcotics misuse, or a person involved in illicit trafficking, and the judgment should explain the factual and assessment basis supporting that classification.[7] This approach is consistent with the double-track system, which allows criminal punishment and measures to operate according to different purposes. Criminal punishment is principally related to fault and the unlawful act, while a measure such as rehabilitation is directed more closely toward the offender's condition, treatment needs, and protection of society.[8] Rehabilitation therefore does not necessarily eliminate legal responsibility but provides a different legal response when recovery is more appropriate than deprivation of liberty.

The effectiveness of rehabilitation also depends on its implementation. Recovery cannot be achieved merely by transferring a person from a correctional institution to a rehabilitation facility. Appropriate participant selection, competent medical and social rehabilitation personnel, adequate facilities, continuity of treatment, family involvement, post-rehabilitation assistance, and assessment of relapse risk are required. Rehabilitation should therefore be understood as a

[6] Hamja, "Implikasi Overcrowding Terhadap Lembaga Pemasyarakatan Di Indonesia," *Mimbar Hukum* 34, no. 1 (2022): 296–324, https://doi.org/10.22146/mh.v34i1.2495

[7] Rio Verieza, Tofik Yanuar Chandra, and Santrawan Paparang, "Penerapan Rehabilitasi Bagi Penyalahguna Narkotika Dalam Sistem Peradilan Pidana Di Indonesia," *SALAM: Jurnal Sosial dan Budaya Syar-i* 9, no. 4 (2022): 1047–1058, https://doi.org/10.15408/sjsbs.v9i4.26738

[8] Merry Natalia Sinaga, "Ide Dasar Double Track System: Sanksi Pidana Dan Tindakan Sebagai Sistem Pemidanaan Terhadap Pelaku Kejahatan Penyalahgunaan Narkotika," *Jurnal Penelitian Pendidikan Sosial Humaniora* 3, no. 1 (2018): 337–345, https://doi.org/10.32696/jp2sh.v3i1.97

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continuous recovery process extending from assessment and treatment to social reintegration rather than merely the completion of a predetermined period of rehabilitation.

Previous studies have examined rehabilitation from different perspectives. Laksana focuses on the legal basis and sentencing of narcotics abusers through a rehabilitation system,[9] while Lubis et al. examine rehabilitation through a utilitarian perspective and emphasize its benefits for narcotics addicts.[10] These studies provide an important foundation, but they have not connected the formulation, application, and execution stages of criminal law policy with developments following the National Criminal Code, Law Number 1 of 2026 concerning Criminal Adjustment, Regulation of the Minister of Health Number 4 of 2020, and Regulation of the Minister of Social Affairs Number 15 of 2025. They also have not specifically examined how the implementation of rehabilitation is influenced by the relationship among legal rules, law-enforcement institutions, and legal attitudes toward narcotics users.

Legal System Theory is therefore used as a supporting analytical framework through the dimensions of legal substance, legal structure, and legal culture.[11] Legal substance concerns the clarity and consistency of rules governing classification, assessment, and rehabilitation; legal structure concerns the functions and coordination of investigators, public prosecutors, judges, the National Narcotics Agency, assessment teams, and rehabilitation institutions; while legal culture concerns the attitudes and legal understanding that influence how narcotics users are treated. Friedman's framework explains the conditions affecting the implementation of rehabilitation, while Bentham's utilitarian theory remains the philosophical basis for evaluating the benefits and harms produced by the legal response.

This study therefore aims to analyze utilitarian justice as the philosophical basis for the legal policy on rehabilitation measures for victims of narcotics misuse, to examine the implementation of rehabilitation through the dimensions of legal substance, legal structure, and legal culture, and to analyze the legal policy on rehabilitation through the formulation, application, and execution stages of criminal law policy. Its contribution lies in connecting Bentham's utilitarian assessment with Friedman's analysis of the legal system and the stages of criminal law policy within the current Indonesian narcotics law framework.

B. Methods

This study employs normative legal research with a descriptive-analytical character, using statutory, conceptual and comparative approaches. The statutory approach examines Law Number 35 of

[9] Andri Winjaya Laksana, "Tinjauan Hukum Pemidanaan Terhadap Pelaku Penyalahguna Narkotika Dengan Sistem Rehabilitasi," *Jurnal Pembaharuan Hukum* 2, no. 1 (2015): 74–85, https://doi.org/10.26532/jph.v2i1.1417

[10] Muhammad Ridwan Lubis et al., "The Urgency of Rehabilitation in the Utilitarian Paradigm to Punishing Narcotics Addicts," *Jurnal Hukum* 39, no. 2 (2023): 295–306, https://doi.org/10.26532/jh.v39i2.36637

[11] Mohd. Yusuf DM et al., "Analisis Faktor Penghambat Penegakan Hukum Pidana di Indonesia dalam Perspektif Teori Lawrence Friedman," *Jurnal Ilmiah Advokasi* 13, no. 2 (2025): 711–725, https://doi.org/10.36987/jiad.v13i2.6369

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2009 concerning Narcotics, Law Number 1 of 2023 concerning the National Criminal Code, Law Number 1 of 2026 concerning Criminal Adjustment, Regulation of the Minister of Health Number 4 of 2020, Regulation of the Minister of Social Affairs Number 15 of 2025, and other legal provisions concerning narcotics assessment and rehabilitation. The conceptual approach examines criminal law policy, rehabilitation measures, the purposes of punishment, Jeremy Bentham's utilitarian theory of justice, and Lawrence M. Friedman's Legal System Theory. Bentham's theory is used to assess the benefits and harms arising from imprisonment and rehabilitation, while Friedman's theory is used to examine the implementation of rehabilitation through the dimensions of legal substance, legal structure, and legal culture. The comparative approach is used to examine rehabilitation policies in Portugal, Malaysia, and Singapore in order to identify relevant legal and institutional practices that may inform the development of rehabilitation policy for victims of narcotics misuse in Indonesia. The legal materials consist of legislation and judicial policies as primary legal materials, books and peer-reviewed journal articles as secondary legal materials, and supporting reference sources as tertiary legal materials. The materials are collected through library and document research and analyzed qualitatively with a prescriptive orientation. Grammatical, systematic, and teleological interpretations are used to examine the meaning of relevant legal provisions, the relationship among regulations governing narcotics offences and rehabilitation, and their conformity with the objectives of recovery, prevention of repeated narcotics use, and protection of society. The analysis of criminal law policy is conducted through the formulation, application, and execution stages, while the functioning of rehabilitation within the legal system is assessed through legal substance, legal structure, and legal culture. Conclusions are drawn deductively from legal provisions and theoretical concepts toward an assessment of the legal policy governing rehabilitation measures for victims of narcotics misuse.

C. Results and Discussion

1. Utilitarian Justice as the Philosophical Basis for the Legal Policy on Rehabilitation Measures for Victims of Narcotics Misuse

Jeremy Bentham's theory of utilitarian justice evaluates legal policy according to the consequences and benefits produced by its implementation. A legal policy may be regarded as justified when the benefits it generates are greater than the pain or harm resulting from it. This understanding is closely related to Bentham's greatest happiness principle, which places utility as the basis for assessing whether a legal measure serves the interests of individuals and society.[12] In criminal law, this approach does not require every unlawful act to be answered through increasingly severe punishment. A sanction is justified when it is capable of preventing greater harm and when the burden imposed does not exceed what is required to achieve the purposes of punishment.

[12] Endang Pratiwi, Theo Negoro, and Hassanain Haykal, "Teori Utilitarianisme Jeremy Bentham: Tujuan Hukum Atau Metode Pengujian Produk Hukum?," *Jurnal Konstitusi* 19, no. 2 (2022): 268–293, https://doi.org/10.31078/jk1922

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The calculation of pleasure and pain provides a basis for comparing imprisonment and rehabilitation in cases involving victims of narcotics misuse. Imprisonment restricts liberty and may produce a deterrent effect, but the consequences extend beyond deprivation of freedom. A narcotics user may lose employment, experience disruption of family relations, face social stigma, and remain exposed to health problems associated with dependence. Placement in a correctional institution may also bring the person into contact with offenders involved in illicit narcotics trafficking. When dependence remains untreated, imprisonment may therefore impose considerable suffering without resolving the condition that contributed to the narcotics use.[13]

Rehabilitation produces a different set of consequences because its principal purpose is treatment and recovery. Participants are required to undergo medical examinations, treatment, counselling, evaluation, and other forms of assistance according to their condition. These requirements may restrict certain aspects of personal freedom during the programme, but the restrictions are directed toward reducing dependence, restoring physical and psychological health, improving behaviour, and preparing participants to resume their social functions. From a utilitarian perspective, the burden imposed through rehabilitation can be justified when it contributes directly to recovery and reduces the possibility of repeated narcotics use.[14]

A utilitarian assessment must also consider the distribution of benefits between the individual, the family, and society.[15] For the individual, appropriate rehabilitation may reduce health risks, accompanying illnesses, relapse, and the possibility of committing further offences related to narcotics dependence. Families may benefit from the recovery of a family member and from the reduction of social and economic burdens associated with continued narcotics use. Society may benefit from lower demand for narcotics, reduced repeated offending, and more proportionate use of correctional facilities. The utility of rehabilitation therefore arises from its capacity to address the condition of dependence while producing wider preventive and social benefits.

The use of utility as the principal measure of legal policy nevertheless requires limits. John Rawls' criticism of utilitarian reasoning shows that aggregate social benefits cannot justify the disregard of individual rights and freedoms. Rehabilitation cannot be imposed without a lawful examination, compliance with legal procedures, and reliable evidence concerning the person's condition. The classification of a person as an addict or a victim of narcotics misuse must be based on assessment

[13] Fatimah Zahro Rizqiyah, Selamat Lumban Gaol, and Sudarto, "The Effectiveness of Criminal Sanctions for Drugs Users in Realizing Rehabilitation Goals," *JILPR Journal Indonesia Law and Policy Review* 7, no. 3 (2026): 720–726, https://doi.org/10.56371/jirpl.v7i3.627

[14] Ahmad Kharis and Derry Ahmad Rizal, "Traversing the Path of Recovery: Social Rehabilitation for NAPZA Survivors at the Cinta Kasih Bangsa Foundation Semarang Indonesia," *Jurnal Al-Ijtimaiyyah* 11, no. 1 (2025): 113–139, https://doi.org/10.22373/al-ijtimaiyyah.v11i1.29614

[15] Choky Risda Ramadhan, "Analisis Manfaat-Biaya Dalam Pembentukan Regulasi: Praktik, Kritik, Dan Instrumen Demokratik," *Jurnal RechtsVinding: Media Pembinaan Hukum Nasional* 10, no. 2 (2021): 229–247, https://doi.org/10.33331/rechtsvinding.v10i2.716

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results and facts that can be legally accounted for.[16] The pursuit of social benefit must remain compatible with human dignity, procedural protection, and proportionality in the treatment imposed. The benefits expected from rehabilitation also depend on the quality of its implementation. A judicial order directing a person to undergo rehabilitation does not by itself produce recovery. The programme requires clear objectives, an appropriate duration, adequate service standards, periodic evaluation, and supervision. Medical and social services must correspond with the participant's level of dependence and individual needs. Treatment, counselling, assistance, and progress assessment should continue throughout the rehabilitation period so that the programme is directed toward measurable recovery rather than merely fulfilling the formal terms of a judgment.

Rehabilitation based on utilitarian justice seeks to protect the interests of the individual and society within the same legal response.[17] Health recovery does not eliminate legal responsibility for conduct that has been proven through criminal proceedings. Persons undergoing rehabilitation remain subject to the requirements of the programme, evaluation, supervision, and restrictions required for treatment. The distinction from imprisonment lies primarily in the purpose and consequences of the measure. Rehabilitation directs legal intervention toward recovery, relapse prevention, and social reintegration, while still maintaining the authority of the state to respond to unlawful narcotics use.

Viewed through Bentham's theory, rehabilitation measures for victims of narcotics misuse are justified when the benefits generated by treatment and recovery outweigh the suffering and social costs associated with imprisonment. Rehabilitation is therefore not a means of releasing a person from legal responsibility, but a legal response designed to address dependence through medical and social intervention. Its utility can be identified in the recovery of the individual, the reduction of repeated narcotics use, the restoration of social functioning, and the protection of society from continuing narcotics-related harm. The legal justification for rehabilitation nevertheless depends on accurate classification, lawful assessment, adequate services, and respect for the dignity and fundamental rights of the person concerned.

2. Implementation of Rehabilitation Measures through Legal System Theory

Lawrence M. Friedman's Legal System Theory provides an analytical framework for examining the implementation of rehabilitation through legal substance, legal structure, and legal culture. These three elements explain different aspects of the operation of law. Legal substance concerns the rules that determine rights, obligations, classifications, and legal consequences. Legal structure concerns the institutions and officials responsible for applying those rules. Legal culture concerns the

[16] I Made Widia Wirya Putra, Dewi Sulistianingsih, and Dani Muhtada, "Fulfilment of the Right to a Fair Justice for Victims and Narcotics Abusers in Indonesia," *Indonesian Journal of Advocacy and Legal Services* 6, no. 2 (2024): 205–234, https://doi.org/10.15294/ijals.v6i2.30568

[17] Siti Hidayatun and Yeni Widowaty, "Konsep Rehabilitasi Bagi Pengguna Narkotika Yang Berkeadilan," *Jurnal Penegak Hukum dan Keadilan* 1, no. 2 (2020): 166–181, https://doi.org/10.18196/jphk.1209

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attitudes, understanding, and legal expectations that influence the manner in which legal rules are interpreted and implemented.[18] In narcotics cases, these three dimensions are relevant because the availability of rehabilitation in legislation does not by itself determine whether a person who requires treatment will actually receive rehabilitation.

a. Legal Substance

The legal substance governing rehabilitation is principally derived from Law Number 35 of 2009 concerning Narcotics. Article 54 requires narcotics addicts and victims of narcotics misuse to undergo medical and social rehabilitation, while Article 103 gives judges authority to order treatment or care through rehabilitation. Article 127 regulates narcotics abuse for personal use and requires consideration of provisions concerning rehabilitation. These provisions establish a legal distinction between persons whose conduct is connected with personal use or dependence and persons involved in illicit narcotics trafficking.[19] The distinction is central because different classifications may result in different forms of legal response.

The difficulty lies in applying these classifications to the facts of individual cases. Narcotics may be discovered in the possession of a person who uses them because of dependence, but possession may also form part of illicit distribution. The legal meaning of possession therefore cannot be determined solely from the physical control of narcotics. The purpose of possession, quantity and type of narcotics, history of use, source of the substance, health condition, transaction evidence, and relationship with other persons must be examined together. An inaccurate classification at this stage may direct a person who requires treatment toward criminal provisions carrying imprisonment rather than rehabilitation. Differences in the application of the terms narcotics abuser, addict, and victim of narcotics misuse may result in different legal outcomes in cases with comparable circumstances.[20]

Supreme Court Circular Letter Number 4 of 2010 also forms part of the policy framework for placing narcotics abusers, victims of narcotics misuse, and addicts in medical and social rehabilitation institutions. Its existence provides judicial guidance for determining when rehabilitation may be appropriate. The relationship between statutory provisions and judicial guidance nevertheless requires consistent interpretation. A circular letter cannot replace the statutory requirements contained in the Narcotics Law, while the provisions of the Narcotics

[18] Febrian, Nurhidayatuloh, Mada Apriandi Zuhir, and Annalisa Y, "The Implementation of Friedman's Theory in the Context of the Legal System in Indonesia," *International Journal of Psychosocial Rehabilitation* 24, no. 8 (2020), https://doi.org/10.61841/wt0cq011

[19] Ebit Kartono Mandala Putra et al., "Rehabilitasi Penyalahguna dan Pecandu Narkotika sebagai Kebijakan Hukum Pidana di Indonesia," *COURT REVIEW: Jurnal Penelitian Hukum* 6, no. 4 (2026): 158–169, https://doi.org/10.69957/cr.v6i04.3013

[20] Tiara Aimy Aineka, Iqbal Taufik, and Harry Clifford Jonas Salmon, "Kajian Yuridis Putusan Hakim Terhadap Penyalahguna Narkotika Tanpa Rehabilitasi Dalam Perspektif SEMA No. 4 Tahun 2010 dan SEMA No. 3 Tahun 2015," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 3 (2026): 9275–9282, https://doi.org/10.61104/alz.v4i3.8252

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Law still require factual examination to determine whether the person falls within the category entitled to or requiring rehabilitation.[21]

The legal framework has become more complex following the enactment of Law Number 1 of 2023 concerning the National Criminal Code and Law Number 1 of 2026 concerning Criminal Adjustment. Articles 609 and 610 of the National Criminal Code place narcotics offences within the national criminal law codification, while the Narcotics Law continues to contain provisions concerning rehabilitation and the classification of addicts and victims of narcotics misuse. The two regulatory frameworks need to be applied in a manner that preserves the distinction between illicit trafficking and narcotics use requiring treatment.[22] The introduction of new criminal provisions should not result in the rehabilitation provisions losing their function merely because the same factual conduct can also be examined through provisions carrying criminal punishment. The current version of the article already recognizes the need to maintain this relationship.

Another element of legal substance concerns the integrated assessment mechanism. Assessment combines legal, medical, and psychosocial examinations and provides information relevant to the classification of a narcotics user. Its value lies in providing an evidentiary basis for determining dependence, patterns of use, health conditions, and possible involvement in illicit trafficking. The assessment should therefore be connected with the legal decision-making process rather than being treated merely as a procedural document. Clearer rules concerning when assessment must be conducted, the legal weight of its findings, and the reasons required when law enforcement officers depart from its recommendations would reduce differences in handling cases with similar circumstances.[23]

The implementation stage also depends on regulations governing rehabilitation services. Regulation of the Minister of Health Number 4 of 2020 provides the basis for medical rehabilitation services, while Regulation of the Minister of Social Affairs Number 15 of 2025 regulates social rehabilitation assistance. These regulations give operational meaning to the rehabilitation ordered under criminal law by governing treatment, assistance, recording of participant development, and social reintegration. Legal substance should therefore be understood as a chain of rules extending from the classification of the person in criminal proceedings to the actual delivery of medical and social rehabilitation services.

[21] Hayatun Nani, Johari J, and Ummi Kalsum, "Efektivitas Rehabilitasi Pecandu Narkotika Menurut Surat Edaran Mahkamah Agung Nomor 4 Tahun 2010," *Jurnal Ilmiah Mahasiswa Fakultas Hukum Universitas Malikussaleh* 4, no. 3 (2021), https://doi.org/10.29103/jimfh.v4i3.5491

[22] Panji Bangun Indriyanto, "Sentencing Narcotics Users through Integrated Assessment Based Rehabilitative Diversion after the National Criminal Code and the Criminal Provisions Adjustment Law," *Adagium: Jurnal Ilmiah Hukum* 4, no. 2 (2026): 687–700, https://doi.org/10.70308/xvkbb205

[23] Nomi Deski Purnama and Lucky Raspati, "Implementasi Asesmen Terpadu Pada Tahap Penyidikan Terhadap Tersangka Tindak Pidana Penyalahgunaan Narkotika," *Jurnal Hukum Inkracht* 5, no. 3 (2025), https://doi.org/10.37721/inkracht.5.3.126

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The main issue within legal substance is thus not the absence of a legal basis for rehabilitation. Indonesian law already recognizes medical and social rehabilitation and provides several mechanisms for its application. The difficulty concerns the relationship among the classifications contained in the Narcotics Law, criminal provisions concerning possession and trafficking, assessment mechanisms, judicial guidance, and implementing regulations. Greater clarity in these relationships is required so that similar factual circumstances do not lead to substantially different legal treatment merely because different provisions or classifications are emphasized.

b. Legal Structure

The implementation of rehabilitation also depends on the institutions that operate the legal rules. Legal structure includes investigators, public prosecutors, judges, the National Narcotics Agency, integrated assessment teams, correctional authorities, health institutions, and social rehabilitation institutions. Each institution performs a different function, but the decision concerning rehabilitation is affected by the information and legal classification produced throughout the criminal justice process.

Investigators occupy an important position because the initial examination may influence the subsequent direction of the case. The discovery of narcotics should be followed by an examination of the purpose of possession, history of use, source of narcotics, transaction evidence, relationship with other persons, and indications of dependence. Where the circumstances indicate personal use or dependence, access to an integrated assessment becomes relevant. An investigation that focuses mainly on possession and quantity may fail to identify the personal and medical circumstances that distinguish a user requiring treatment from a person participating in trafficking.[24]

Public prosecutors also affect the possibility of rehabilitation through the selection of charges and the presentation of the case before the court. The prosecution should consider the factual findings produced during investigation and the results of an integrated assessment. When evidence of dependence exists, the legal reasoning supporting the charge should explain why the person is treated as an offender requiring imprisonment, a person requiring rehabilitation, or a person whose circumstances justify a combination of legal responses. The choice of charge has considerable importance because it determines the statutory framework later considered by the court.[25]

[24] Febri Handayani and Lysa Angrayni, "Challenges and Ideas for Integrated Assessment Design for Treatment of Narcotics Abusers in Indonesia," *Jurnal Penelitian Hukum De Jure* 24, no. 1 (2024): 73–88, https://doi.org/10.30641/dejure.2024.V24.073-088

[25] Dede Kania and Litya Surisdani Anggraeniko, "Realizing Restorative Justice Through Rehabilitation for Narcotics Abuse as an Implementation of the Principle of Dominus Litis," *Jurnal Cita Hukum* 11, no. 3 (2023): 527–544, https://doi.org/10.15408/jch.v11i3.34756

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Judges have the responsibility to examine the evidence independently and determine the defendant's legal status. A rehabilitation decision should identify the basis for classifying the defendant as an addict, an abuser for personal use, or a victim of narcotics misuse. The judgment should also explain the relevance of assessment results, the form of rehabilitation ordered, its duration, and the institution responsible for implementation. Conversely, when imprisonment is imposed despite evidence of dependence, the judgment should explain why rehabilitation is considered inadequate.[26] Reasoned judicial decisions provide a basis for reviewing whether different outcomes arise from differences in the facts or merely from different interpretations of similar circumstances. The existing manuscript already identifies the importance of clear and reviewable judicial reasoning in rehabilitation cases.

The integrated assessment team occupies a connecting position between criminal law enforcement and health-based examination. Legal, medical, and psychosocial information generated through the assessment may assist investigators, prosecutors, and judges in distinguishing dependence from participation in trafficking. The usefulness of this mechanism depends on timely access to assessment, the quality of the examination, and the extent to which the findings are considered during the criminal process. An assessment conducted after the legal direction of the case has effectively been determined may have limited influence on the final legal response.[27]

The institutional responsibility does not end when the court orders rehabilitation. Medical and social rehabilitation institutions determine whether the measure produces actual recovery. Treatment personnel must assess the participant's condition, provide services appropriate to the degree of dependence, record progress, and adjust treatment when necessary. Social rehabilitation institutions have a related responsibility in restoring social functioning, strengthening family support, and preparing participants for reintegration. The effectiveness of the court's decision therefore depends on institutional capacity after the adjudication stage.[28]

Coordination is particularly important because no single institution controls the entire rehabilitation process. Investigators and prosecutors possess information concerning the alleged offence, assessment teams provide legal and health evaluations, judges determine the legal response, and rehabilitation institutions implement treatment and recovery programmes. Differences in institutional understanding or incomplete transfer of

[26] Christina Natal Megawati Tobing and Tumbur Palti D. Hutapea, "Problems Faced by Judges in Determining Rehabilitation for Narcotics Abusers," *Law Review* 23, no. 2 (2023): 172–189, https://doi.org/10.19166/lr.v23i2.6479

[27] Abdul Rahman Abdul, Cholidi Zainuddin, and Abdul Latif Mahfuz, "Mechanism and Effectiveness of the Integrated Assessment Team of the National Narcotics Agency of South Sumatra Province in Assisting the Investigation of Narcotics Crimes," *Ta'zir: Jurnal Hukum Pidana* 9, no. 1 (2025): 1–20, https://doi.org/10.19109/tazir.v9i1.27769

[28] Enggartiasto Adipradana, Suwari Akhmaddhian, Diding Rahmat, and Yunusrul Zen, "The Role of Government Institutions in Rehabilitation of Handling Victims of Narcotic Abuse," *Unifikasi: Jurnal Ilmu Hukum* 7, no. 1 (2020): 96–109, https://doi.org/10.25134/unifikasi.v7i1.2149

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information may affect the continuity of the process. The manuscript already recognizes that the execution of rehabilitation depends on the availability of facilities and cooperation between BNN, government institutions, community organizations, and other rehabilitation providers.

The weakness of legal structure can therefore arise when the institutions involved perform their functions separately without sufficient coordination. The legal basis for rehabilitation may be adequate, but its implementation can still differ when access to assessment, prosecutorial considerations, judicial reasoning, rehabilitation facilities, or follow-up services vary. The effectiveness of rehabilitation depends on a continuous institutional process beginning with the identification of the user's status and ending with treatment, evaluation, and social reintegration.

c. Legal Culture

Legal culture concerns the attitudes and understanding that influence how legal rules are used. In narcotics law enforcement, this dimension becomes relevant because the classification of a person as an offender, addict, or victim involves more than the mechanical application of statutory provisions. The manner in which investigators, prosecutors, judges, rehabilitation officers, and society understand narcotics misuse can influence whether rehabilitation is regarded as an appropriate legal response.[29]

A strongly punishment-oriented understanding of narcotics law may encourage the view that imprisonment represents firmness, whereas rehabilitation represents leniency.[30] Such an understanding does not sufficiently distinguish between organized illicit trafficking and narcotics use connected with dependence. Rehabilitation is not equivalent to the absence of legal responsibility. A person undergoing rehabilitation remains subject to a judicial or administrative process, treatment obligations, evaluation, supervision, and restrictions corresponding to the rehabilitation programme. The difference lies in the legal objective pursued: treatment and reduction of dependence rather than deprivation of liberty as the principal response.

Legal culture also influences the use of assessment results. When narcotics dependence is regarded merely as a personal choice or an excuse for avoiding imprisonment, medical and psychosocial findings may receive less attention than evidence of possession. When dependence is understood as a condition that requires legal, medical, and social examination,

[29] Isvany Andi Lulu, "The Nature of Law Enforcement against Drug Abusers in the South Sulawesi Police Jurisdiction," *Journal of Cultural Analysis and Social Change* 11, no. 1 (2026): 475–481, https://doi.org/10.64753/jcasc.v11i1.3886

[30] M. Dandi Agus Darmawan, Arthur Josias Simon Runturambi, and Anang Iskandar, "The Dilemma of Enforcement of Justice Rehabilitation for Drug Abusers: A Study of Practices and Regulations," *NOMOI Law Review* 6, no. 2 (2025): 311–326, https://doi.org/10.30596/nomoi.v6i2.27429

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assessment becomes relevant to determining the appropriate response.[31] This does not mean that every narcotics user should automatically receive rehabilitation. The legal culture required by the Narcotics Law is one that distinguishes personal use and dependence from participation in illicit trafficking on the basis of evidence.

Social stigma may also affect rehabilitation. Persons who have used narcotics frequently face difficulties in returning to their families, workplaces, educational institutions, and communities. A rehabilitation programme may achieve medical improvement while social reintegration remains difficult because the participant continues to be treated solely as a criminal offender. The social environment therefore influences whether recovery can be maintained after formal treatment has ended.[32] Family assistance, access to employment, education, and community acceptance have relevance to the prevention of relapse.

Within law enforcement institutions, legal culture can be strengthened through a common understanding of the distinction among narcotics traffickers, abusers for personal use, addicts, and victims of narcotics misuse. Professional training should give attention to the legal meaning of these categories, the purpose of integrated assessment, and the relationship between criminal responsibility and treatment.[33] Consistency in legal reasoning does not require identical outcomes in every case. It requires comparable facts to be examined through comparable legal considerations, while differences in decisions should be supported by differences in evidence, role, degree of fault, or treatment needs.

The legal culture surrounding rehabilitation should consequently place rehabilitation within the criminal justice system as a legally regulated measure rather than as an exception granted out of sympathy. Its justification is derived from the person's legal status, the evidence concerning dependence, assessment findings, and the objectives established by narcotics legislation. This understanding allows firm action against illicit trafficking to coexist with treatment for persons whose condition and degree of responsibility justify rehabilitation.

Viewed through Friedman's Legal System Theory, the implementation of rehabilitation depends on the interaction of these three elements. Legal substance determines who may receive rehabilitation and the rules governing assessment and treatment. Legal structure determines whether the responsible institutions identify, assess, adjudicate, and treat the person in accordance with those rules. Legal culture influences how those rules and institutional functions are

[31] Syahfrin Kurniawan, Joharsyah Joharsyah, and Sahbudi Sahbudi, "Analisis Penegakan Hukum Yang Tepat Bagi Pelaku Penyalahgunaan Narkotika Dalam Perspektif Hak Asasi Manusia," *Jurnal Ilmiah Penegakan Hukum* 12, no. 2 (2025): 326–334, https://doi.org/10.31289/jiph.v12i2.16273

[32] Rina Apriliani Sugiarti, "The Problem with Stigma: Identifying Its Impact on Drug Users and Recommendation for Interventions," *Psikologia: Jurnal Pemikiran dan Penelitian Psikologi* 18, no. 2 (2023): 113–126, https://doi.org/10.32734/psikologia.v18i2.11320

[33] A. Pradani, A. Alhakim, and Ampuan Situmeang, "Efektivitas Sistem Hukum Pidana dalam Penanganan Narkotika di Indonesia," *Jurnal Hukum to-Ra: Hukum untuk Mengatur dan Melindungi Masyarakat* 12, no. 1 (2026): 137–156, https://doi.org/10.55809/tora.v12i1.594

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understood and applied. Weakness in one element can reduce the operation of the others. Clear rehabilitation provisions have limited effect when institutions do not apply them consistently, while capable institutions may also be constrained by unclear classifications or a legal culture that equates narcotics law enforcement primarily with imprisonment.

3. Juridical Analysis of the Legal Policy on Rehabilitation Measures through the Formulation, Application, and Execution Stages Based on Utilitarian Justice

Criminal law policy concerning rehabilitation measures can be examined through the stages of formulation, application, and execution. The formulation stage concerns the establishment of legal norms that determine the subjects, conditions, procedures, and legal consequences of rehabilitation. The application stage concerns the manner in which investigators, public prosecutors, judges, and other law-enforcement institutions apply those norms to individual cases. The execution stage concerns the implementation of rehabilitation after a legal decision has been made. These stages form a continuous process because the benefits expected from rehabilitation cannot be achieved solely through the existence of statutory provisions. Appropriate legal formulation must be followed by accurate application and adequate execution.

a. Formulation Stage

At the formulation stage, Law Number 35 of 2009 concerning Narcotics provides the principal legal basis for rehabilitation. Article 54 requires narcotics addicts and victims of narcotics misuse to undergo medical and social rehabilitation. Article 55 regulates reporting obligations in relation to addicts, while Article 103 authorizes judges to order treatment or care through rehabilitation. Article 127 regulates narcotics abuse for personal use and requires the court to consider the rehabilitation provisions when examining such cases. These provisions demonstrate that Indonesian narcotics law does not place imprisonment as the only legal response to narcotics misuse.[34]

The distinction between punishment and rehabilitation is important because narcotics offences involve persons with different roles and degrees of responsibility. A person who organizes, finances, produces, sells, or distributes narcotics for unlawful purposes cannot be treated in the same manner as a person whose involvement is principally connected with personal use and dependence. Criminal law policy must therefore formulate sufficiently clear criteria for distinguishing illicit trafficking from narcotics misuse requiring treatment. Failure to maintain this distinction may cause rehabilitation provisions to lose their function when

[34] Supriyadin, Herman, and Handrawan, "Formulasi Kebijakan Hukum Pidana tentang Rehabilitas dalam Tindak Pidana Penyalahgunaan Narkotika," *Halu Oleo Legal Research* 1, no. 2 (2019): 209–218, https://doi.org/10.33772/holresch.v1i2.6209

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provisions carrying imprisonment are applied solely because narcotics are found in a person's possession.[35]

This approach is also related to the principle of ultimum remedium. Imprisonment should not automatically become the principal response where another legal measure is more capable of achieving the purposes of criminal law. In cases involving victims of narcotics misuse whose dominant condition is dependence and whose involvement in illicit trafficking has not been proven, rehabilitation may provide a more appropriate response because it directly addresses the condition that contributes to repeated narcotics use. Rehabilitation in this context does not eliminate legal responsibility but determines the form of intervention that corresponds with the person's condition and degree of fault.[36]

Supreme Court Circular Letter Number 4 of 2010 also provides judicial guidance concerning the placement of narcotics abusers, victims of narcotics misuse, and addicts in medical and social rehabilitation institutions. Its existence demonstrates the need for more operational criteria in applying the rehabilitation provisions contained in the Narcotics Law. Judicial guidance nevertheless cannot replace statutory provisions. Its function is to assist the court in applying the law consistently while the determination of rehabilitation must continue to depend on the facts, evidence, assessment results, and circumstances of each case.

The enactment of Law Number 1 of 2023 concerning the National Criminal Code and Law Number 1 of 2026 concerning Criminal Adjustment has also affected the formulation of narcotics criminal law policy. Articles 609 and 610 of the National Criminal Code regulate narcotics offences within the national criminal law codification. These provisions must be interpreted together with Law Number 35 of 2009, particularly the provisions concerning addicts, victims of narcotics misuse, assessment, and rehabilitation. The development of criminal provisions should not result in rehabilitation losing its legal function merely because narcotics-related conduct can also be examined through provisions carrying criminal punishment.[37]

The formulation stage must further respond to developments in new narcotics and psychoactive substances. The expansion or adjustment of prohibited substances must be accompanied by adequate methods for determining patterns of use, dependence, health consequences, and appropriate treatment. Criminalization of a newly regulated substance

[35] Adrienne Dwi Syahfiradella and Hafrida, "Kebijakan Hukum Pidana Mengenai Depenalisasi Terhadap Penyalahguna Narkotika Melalui Rehabilitasi," *PAMPAS: Journal of Criminal Law* 3, no. 3 (2022): 326–336, https://doi.org/10.22437/pampas.v3i3.24218

[36] Ginta Amelia Cahya, Ali Masyhar, and Cahya Wulandari, "Rehabilitasi atau Pidana? Studi Kritis Restorative Justice Penyalahgunaan Narkotika Berbasis Teori Pemidanaan Integratif," *Kertha Semaya: Journal Ilmu Hukum* 14, no. 6 (2026): 662–677, https://doi.org/10.24843/KS.2026.v14.i06.p08

[37] Riki Afrizal, Iwan Kurniawan, and Nelwitis, "Rehabilitasi Sebagai Tindakan Dalam KUHP Nasional Dan Implikasinya Terhadap Politik Hukum Pencegahan Dan Penanggulangan Penyalahgunaan Narkotika," *Unes Journal of Swara Justisia* 8, no. 3 (2024): 666–675, https://doi.org/10.31933/5jqbem91

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will have limited value if the legal system does not simultaneously establish mechanisms capable of identifying persons who require medical and social rehabilitation.

An important issue at this stage concerns the legal position of the integrated assessment. Assessment produces legal, medical, and psychosocial information that can influence the classification of narcotics users and the selection of the appropriate legal response. The regulatory framework should provide greater clarity regarding the circumstances in which assessment must be conducted, the evidentiary position of its results, the institutions responsible for conducting it, and the reasons required when law-enforcement officers do not follow a rehabilitation recommendation. Clearer formulation would reduce the possibility that persons with comparable conditions receive substantially different treatment merely because assessment results are given different legal weight.[38]

The formulation of rehabilitation policy should consequently establish a coherent relationship among the Narcotics Law, the National Criminal Code, judicial guidance, integrated assessment mechanisms, health regulations, and social rehabilitation regulations. The central issue is not the absence of rehabilitation provisions but the need to ensure that these provisions operate within a consistent legal framework capable of distinguishing treatment needs from participation in illicit trafficking.

b. Application Stage

The application stage begins when law-enforcement officers determine the actual role and condition of a person involved in a narcotics case. Investigators should examine the source and purpose of possession, quantity and type of narcotics, transaction evidence, relationships with other persons, history of use, laboratory findings, and indications of dependence. Possession alone does not necessarily establish involvement in illicit trafficking, while a claim of personal use cannot automatically remove criminal responsibility. The legal response must therefore be based on the overall circumstances of the case.

Integrated assessment is particularly important at this stage because legal, medical, and psychosocial examinations provide information concerning the level of dependence, health condition, pattern of use, circumstances of possession, and possible connection with trafficking networks. These findings assist law-enforcement officers in determining whether the person principally requires treatment or whether the evidence demonstrates participation in narcotics distribution. The assessment should be conducted early enough to influence the

[38] Mardana Rifta Oktaviana, Ali Masyhar, and Cahya Wulandari, "Sentencing Disparity and the Reformulation of Rehabilitation Policy for Narcotics Users under Law Number 35 of 2009 and the Indonesian National Criminal Code," *Al-Risalah Jurnal Ilmu Syariah dan Hukum* 26, no. 1 (2026): 1130–1148, https://doi.org/10.24252/al-risalah.vi.66931

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legal direction of the case rather than after the classification of the person has effectively been determined.[39]

Public prosecutors also influence the application of rehabilitation through the selection of charges. Where the evidence indicates personal use accompanied by dependence, assessment findings and rehabilitation provisions should form part of the prosecutorial consideration. Where the evidence establishes participation in illicit trafficking, criminal provisions concerning distribution may appropriately be applied. The charge should therefore reflect the defendant's actual conduct, degree of involvement, and condition rather than rely exclusively on the discovery of narcotics as physical evidence.[40]

Judicial reasoning becomes decisive when the case reaches the court. A rehabilitation decision should explain the factual and legal basis for classifying the defendant as an addict, an abuser for personal use, or a victim of narcotics misuse. The judgment should also identify the assessment evidence considered, the form and duration of rehabilitation, and the institution responsible for implementation. Where imprisonment is imposed despite indications of dependence, the court should explain why rehabilitation is considered inappropriate.[41] Clear reasoning is necessary to prevent different outcomes in comparable cases from arising merely from inconsistent interpretations of the legal categories.

The use of rehabilitation at the application stage is also consistent with the relative theory of punishment when preventive objectives can be achieved through treatment and improvement of the offender. Medical rehabilitation is directed toward reducing dependence and treating physical and psychological conditions, while social rehabilitation seeks to restore family relationships, working capacity, behavioural stability, and social functioning. The type and intensity of treatment should correspond with the results of the assessment and the participant's individual condition.

The effectiveness of rehabilitation should not be assessed solely from completion of the period stated in a judgment. Evaluation should consider improvements in health, compliance with treatment, ability to control narcotics use, family relationships, social stability, readiness to return to education or employment, and the risk of relapse. Religious guidance, family involvement, community support, counselling, support groups, and vocational assistance may complement medical and social rehabilitation where appropriate.

[39] Judius Syahpala Sidauruk, Kiki Kristanto, Rizki Setyobowo Sangalang, and Vicka Prama Wulandari, "Efektivitas Asesmen Terpadu dalam Menentukan Rehabilitasi bagi Penyalahguna Narkotika di BNN Kota Palangka Raya," *Jurnal Hukum Lex Generalis* 7, no. 7 (2026): 1–30, https://doi.org/10.56370/jhlg.v7i7.3683

[40] Abraham Ethan Martupa Sahat Marune and Brandon Hartanto, "Keadilan Restoratif dalam Penyelesaian Perkara Penyalahgunaan Narkotika Pasca Pedoman Jaksa Agung Nomor 18 Tahun 2021: Perspektif Teori Keadilan Bermartabat," *The Prosecutor Law Review* 1, no. 3 (2023): 98–133, https://doi.org/10.64843/prolev.v1i3.24

[41] Hendi Effendi and Junaidi, "Analisa Yuridis Terhadap Putusan Rehabilitasi Bagi Pelaku Penyalahgunaan Narkotika (Studi Kritis Putusan Nomor: 43/Pid.Sus/2022/PN Jkt.Brt)," *SALAM: Jurnal Sosial dan Budaya Syar-i* 10, no. 6 (2023): 2059–2078, https://doi.org/10.15408/sjsbs.v10i6.42411

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These forms of assistance are particularly relevant for maintaining recovery and reducing the risk of repeated narcotics use after the participant returns to the community.[42]

The degree of criminal responsibility must also be connected with the circumstances in which narcotics misuse occurs. A person who uses narcotics because of persuasion, deception, coercion, or other circumstances affecting personal autonomy should not automatically be treated in the same manner as a person who deliberately participates in illicit trafficking. Special consideration is also required for children by examining age, psychological development, adult influence, family circumstances, social environment, and educational needs. Rehabilitation and diversion from imprisonment are particularly relevant where a child is not involved in a trafficking network.[43] A limited restorative justice approach may also be used for users who are not connected with illicit trafficking, provided that assessment, treatment obligations, supervision, and family or community involvement remain part of the process.

The application stage therefore determines whether the rehabilitative objectives formulated in legislation are directed toward the appropriate person. Incorrect classification may result in imprisonment without addressing dependence, while indiscriminate rehabilitation for persons involved in illicit trafficking may weaken the protective function of narcotics law. The application of rehabilitation should consequently be based on accurate identification of the person's role, degree of fault, dependence, assessment findings, and treatment needs so that the legal response remains proportionate to the circumstances of each case.

c. Execution Stage

The execution stage determines whether a rehabilitation decision actually results in recovery. A judicial order has limited value when the institution responsible for implementation cannot provide services corresponding with the participant's medical and social condition. Rehabilitation requires qualified personnel, adequate facilities, treatment planning, periodic evaluation, continuity of services, and preparation for social reintegration.[44]

Medical rehabilitation should be conducted according to applicable health standards. Regulation of the Minister of Health Number 4 of 2020 provides the regulatory basis for medical rehabilitation services. Initial examination is required to identify the participant's health condition and level of dependence. Treatment plans should subsequently be

[42] Niken Titi Pratitis and Muhammad Rizky Fananni, "Mencegah Kekambuhan pada Pecandu Narkoba: Bagaimana Peranan *Craving* dan Dukungan Keluarga?," *Persona: Jurnal Psikologi Indonesia* 13, no. 1 (2024): 74–94, https://doi.org/10.30996/persona.v13i1.10983

[43] Andre Kristian, Tofik Yanuar Chandra, and Mohamad Ismed, "Penerapan Sanksi Rehabilitasi Terhadap Anak Penyalahguna Narkotika Dalam Sistem Peradilan Pidana Anak," *SALAM: Jurnal Sosial dan Budaya Syar-i* 9, no. 5 (2022): 1473–1482, https://doi.org/10.15408/sjsbs.v9i5.27636

[44] Afrah Dizar Hafizhah and Retna Hanani, "Implementasi Penanganan Klien Rehabilitasi Narkotika Jalur Compulsory dan Voluntary di Badan Narkotika Nasional Kota Jakarta Selatan," *Journal of Management and Public Policy* 15, no. 2 (2026): 812–821, https://doi.org/10.14710/jmpp.v15i2.56942

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developed according to individual needs, accompanied by progress records, management of medication, protection of personal data, and referrals where other health problems are identified.[45]

The execution of rehabilitation cannot be uniform because narcotics dependence may differ in intensity, duration, substance used, psychological condition, and accompanying health disorders. Treatment should therefore respond to the individual condition identified through professional examination. Regular evaluation enables rehabilitation institutions to determine whether the treatment plan should be continued, intensified, modified, or followed by another form of assistance.

Social rehabilitation complements medical treatment by restoring the participant's ability to function within the family and society. Regulation of the Minister of Social Affairs Number 15 of 2025 provides the framework for social rehabilitation assistance, including services relevant to victims of narcotics and other addictive substance misuse. Family assistance, vocational preparation, social counselling, behavioural development, and preparation for reintegration are important because medical recovery alone does not guarantee that a person can maintain recovery after returning to the community.[46]

Post-rehabilitation assistance should therefore form part of the execution policy. Participants may remain vulnerable to relapse after completing formal treatment, particularly when they return to the same social environment, encounter difficulties obtaining employment, or lack family support. Continued counselling, support groups, vocational assistance, community-based supervision, and periodic evaluation can assist in maintaining the results of treatment.[47]

Institutional cooperation is also necessary because rehabilitation may involve the National Narcotics Agency, medical institutions, social rehabilitation institutions, correctional authorities, local governments, community organizations, religious institutions, and families. The information produced during assessment should be connected with the judicial decision and subsequently translated into an appropriate treatment plan. Fragmentation between

[45] Gaerry Amano Suitrisno, Bahrul Amiq, and Yustino Yustino, "Implementasi Fasilitas Rehabilitasi Medis Bagi Pengguna Narkotika di BNN Kota Mojokerto," *Perspektif Administrasi Publik dan Hukum* 2, no. 1 (2025): 215–228, https://doi.org/10.62383/perspektif.v2i1.176

[46] Muhamad Chaidar, Sekaring Ayumeida Kusnadi, Ahmad Zakariyah Alfadani, and Intan Predita Lystiadi, "Pemodelan Rehabilitasi Sosial pada Pecandu Narkotika," *Legal Standing: Jurnal Ilmu Hukum* 9, no. 2 (2025): 408–419, https://doi.org/10.24269/ls.v9i2.11577

[47] Nimas Ayu Dyah Kirani and Riska Andi Fitriono, "Efektivitas Relapse Prevention Pasca Rehabilitasi Untuk Mencegah Residivis Penyalahguna Narkotika di Kota Surakarta," *Recidive: Jurnal Hukum Pidana dan Penanggulangan Kejahatan* 15, no. 1 (2026): 139–149, https://doi.org/10.20961/recidive.v15i1.101237

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assessment, adjudication, treatment, and post-rehabilitation assistance may prevent an otherwise appropriate rehabilitation decision from producing meaningful recovery.[48]

Viewed from the perspective of utilitarian justice, the formulation, application, and execution stages should be directed toward producing greater benefits while preventing unnecessary harm to individuals and society. At the formulation stage, rehabilitation policy should provide a legal response capable of addressing narcotics dependence without imposing the social and health costs of imprisonment when deprivation of liberty does not contribute to recovery. At the application stage, the utility of rehabilitation depends on the accuracy of law-enforcement officers in distinguishing victims of narcotics misuse and persons experiencing dependence from those involved in illicit trafficking, since an incorrect classification may result in imprisonment without addressing the condition underlying narcotics use. At the execution stage, the utility of rehabilitation is determined by its actual capacity to restore physical and psychological health, prevent relapse, improve social functioning, and support reintegration into the family and community. The utilitarian value of rehabilitation therefore does not arise merely from its formal imposition as a legal measure, but from the extent to which the entire criminal law policy, from formulation to execution, produces recovery and social protection with less unnecessary suffering than imprisonment.

d. Comparative Legal Policy on Rehabilitation Measures

A comparison with other jurisdictions demonstrates that rehabilitation may be integrated into narcotics policy through different institutional and procedural models. Portugal, Malaysia, and Singapore provide relevant comparisons because each jurisdiction maintains controls against illicit narcotics trafficking while developing specific mechanisms for responding to persons who use drugs or experience dependence. Their approaches do not provide models that can simply be transferred to Indonesia, but they demonstrate alternative ways of separating treatment needs from the enforcement response directed against trafficking.

Portugal provides a clear example of differentiated legal treatment between personal drug use and illicit trafficking. Law No. 30/2000 places the acquisition and possession of controlled substances for personal consumption within an administrative rather than ordinary criminal process, subject to the statutory conditions. Cases are handled by Commissions for the Dissuasion of Drug Addiction, which are responsible for processing administrative violations and determining appropriate responses. The law requires consideration of the person's circumstances, the nature of consumption, degree of

[48] Dedi Subiantoro and Syukur Kholil, "Da'wah and Rehabilitation: A Study of Collaborative Communication between the National Narcotics Board, Correctional Institutions, and Islamic Organizations in Addressing Narcotics Inmates," *Andalas International Journal of Socio-Humanities* 7, no. 1 (2025): 21–30, https://doi.org/10.25077/aijosh.v7i1.82

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dependence, and other relevant factors. For drug-dependent users, the framework places particular emphasis on non-pecuniary responses and treatment rather than conventional criminal punishment. Illicit trafficking nevertheless remains subject to criminal law.[49]

The relevance of the Portuguese model to Indonesia lies primarily in the procedural separation between personal use requiring intervention and illicit trafficking. The Portuguese approach reduces the likelihood that every person found using or possessing drugs for personal consumption will automatically enter the ordinary criminal punishment process. Its principal lesson is not that Indonesia should reproduce decriminalization in the same form, but that early classification can determine whether the legal response should primarily pursue punishment or health-oriented intervention.[50] From a utilitarian perspective, such differentiation seeks to reduce the harms associated with unnecessary criminalization while maintaining legal control over drug consumption and trafficking.

Malaysia adopts a different model through the Drug Dependants (Treatment and Rehabilitation) Act 1983. Treatment and rehabilitation may be provided through institutional mechanisms, including the Narcotics Addiction Rehabilitation Centres (PUSPEN). Malaysian authorities also provide voluntary access to treatment under section 8(3)(a), including inpatient and outpatient services involving detoxification, counselling, religious and spiritual assistance, relapse-prevention education, life skills, and support programmes.[51] Court-ordered rehabilitation is also available within the statutory framework for persons certified as drug dependent.

Recent Malaysian policy discussions have further emphasized a shift toward viewing persons experiencing addiction as patients requiring treatment rather than merely as offenders. The 2024 amendment process concerning the Drug Dependants (Treatment and Rehabilitation) Act was expressly presented by the National Anti-Drugs Agency as an effort to expand treatment and rehabilitation, including institutional and community-based programmes. Because the implementation status and detailed statutory effect of amendments must be distinguished from the older Act that continues to appear in official legal listings, this development is better understood as evidence of the direction of Malaysian policy rather

[49] Ximene Rêgo, Maria João Oliveira, Catarina Lameira, and Olga S. Cruz, "20 Years of Portuguese Drug Policy—Developments, Challenges and the Quest for Human Rights," *Substance Abuse Treatment, Prevention, and Policy* 16 (2021): Article 59, https://doi.org/10.1186/s13011-021-00394-7

[50] Catherine Moury and Mafalda Escada, "Understanding Successful Policy Innovation: The Case of Portuguese Drug Policy," *Addiction* 118, no. 5 (2023): 967–978, https://doi.org/10.1111/add.16099

[51] Mansur A. Ghani et al., "An Exploratory Qualitative Assessment of Self-Reported Treatment Outcomes and Satisfaction among Patients Accessing an Innovative Voluntary Drug Treatment Centre in Malaysia," *International Journal of Drug Policy* 26, no. 2 (2015): 175–182, https://doi.org/10.1016/j.drugpo.2014.10.002

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than as a basis for assuming that every proposed amendment has displaced the existing statutory framework. [52]

Malaysia provides two lessons relevant to Indonesia: access to rehabilitation need not depend exclusively on the final outcome of criminal proceedings because voluntary treatment can provide earlier intervention and recovery can combine medical, psychosocial, religious, vocational, and community components.[53] This approach corresponds with the understanding that dependence affects more than physical health and may require continued assistance to restore social functioning. Indonesia may therefore strengthen access to early rehabilitation and post-treatment support without reducing criminal enforcement against persons involved in trafficking.

Singapore illustrates another model in which strict narcotics enforcement operates alongside differentiated treatment and supervision. Part IV of the Misuse of Drugs Act 1973 specifically regulates treatment and rehabilitation. Section 34 authorizes the Director of the Central Narcotics Bureau to require medical examination or observation and, where appropriate, to place a person under supervision or order treatment and rehabilitation in an approved institution. The legislation therefore provides a statutory route for directing drug-dependent persons toward treatment while retaining severe criminal responses for trafficking and other serious narcotics offences.

Singapore also uses differentiated rehabilitation pathways according to the circumstances and assessed needs of the individual. The Central Narcotics Bureau explains that persons detected purely for drug consumption may be directed toward treatment and rehabilitation rather than ordinary court prosecution, whereas persons investigated for other criminal or drug offences may proceed through the criminal courts. Rehabilitation is followed by supervision designed to support a drug-free lifestyle and reduce relapse.[54] Singapore has also developed community-based supervision and case-management mechanisms, and since May 2026 first-time drug abusers who voluntarily surrender to the authorities are placed on community drug supervision with compulsory case management rather than custodial treatment in the Drug Rehabilitation Centre.[55]

[52] N. A. Mohd Salleh and Balasingam Vicknasingam, "A Step Forward or a Missed Opportunity? Malaysia's Recent Amendment to the Drug Dependants (Treatment and Rehabilitation) 1983 Bill," *International Journal of Drug Policy* 140 (2025): 104806, https://doi.org/10.1016/j.drugpo.2025.104806

[53] Prem Kumar Shanmugam, "Exploring Trends and Challenges from Mandated Treatment to Voluntary Treatment Outcomes in Addiction Treatment in Malaysia: Moving toward a Person-Centered Service Provision," *Journal of Substance Use* 25, no. 2 (2020): 141–145, https://doi.org/10.1080/14659891.2019.1664669

[54] Narayanan Ganapathy and Jillian Hui Li Too, "Neither an Offender nor a 'Free' Person: Drug Supervision and Desistance in Singapore," *Sociology Compass* 17, no. 12 (2023): e13132, https://doi.org/10.1111/soc4.13132

[55] Central Narcotics Bureau Singapore, "CNB Explains: Supervision 2.0 – How Does CNB Help Former Drug Abusers Build a Drug-Free Life?," February 16, 2026, https://www.cnb.gov.sg/about-us/cnbexplains/cnb-explains--supervision-2-0---how-does-cnb-help-former-drug-abusers-build-a-drug-free-life---/

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The Singaporean approach is relevant because it demonstrates that treatment-oriented policies do not necessarily require weakening criminal enforcement. A legal system may maintain severe sanctions against illicit trafficking while establishing risk-based treatment and supervision for persons whose principal problem is drug use or dependence. Long-term supervision, community support, and continued assessment also demonstrate that rehabilitation does not end when institutional treatment is completed.[56] Singapore's current supervision regime specifically emphasizes continued monitoring and support after treatment.

The comparison among Portugal, Malaysia, Singapore, and Indonesia demonstrates different methods of connecting criminal law with treatment. Portugal places personal consumption within a specialized administrative mechanism and separates it more clearly from trafficking. Malaysia provides both compulsory and voluntary rehabilitation pathways and emphasizes institutional as well as community treatment. Singapore combines strict enforcement with differentiated rehabilitation, risk assessment, and post-treatment supervision. Indonesia already possesses legal provisions for medical and social rehabilitation, but access to those measures continues to depend heavily on correct legal classification, integrated assessment, prosecutorial decisions, judicial reasoning, and institutional capacity.

The most relevant comparative lesson for Indonesia is therefore not the adoption of one foreign model in its entirety. The stronger policy direction is to combine several principles that correspond with the Indonesian legal framework: early differentiation between users requiring treatment and illicit traffickers, reliable assessment before the criminal process becomes irreversibly directed toward imprisonment, wider access to treatment, integration between institutional and community rehabilitation, and continued supervision after formal treatment. These elements may strengthen the utility of rehabilitation because they direct more intensive criminal punishment toward conduct that threatens public safety while ensuring that persons experiencing dependence receive interventions capable of reducing repeated narcotics use.

Consistency among the formulation, application, and execution stages determines whether rehabilitation policy can achieve the benefits expected under utilitarian justice. The formulation stage establishes the legal basis, classification, and limits of rehabilitation; the application stage determines whether those provisions are applied to the appropriate person on the basis of evidence and assessment; and the execution stage translates the legal decision into medical treatment, social recovery, and reintegration. Weakness at one stage may reduce the effectiveness of the others. Unclear formulation may result in inconsistent classification, inaccurate application may place persons requiring treatment in prison or extend rehabilitation to persons involved in illicit

[56] Wan Jie Tan et al., "Sociocultural Context of SMART Recovery in Singapore: A Qualitative Exploration of Members and Facilitators Perspectives and Experiences," *Drug and Alcohol Review* 44, no. 4 (2025): 961–974, https://doi.org/10.1111/dar.14048

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trafficking, while inadequate execution may prevent an appropriate rehabilitation decision from producing meaningful recovery.

Comparative experience also shows that rehabilitation is more effective when it is integrated into a broader legal process rather than treated merely as a substitute for imprisonment at the end of criminal proceedings. Early assessment, differentiated treatment pathways, continuity of services, and post-rehabilitation supervision increase the possibility that legal intervention addresses both the causes and consequences of narcotics dependence. The experiences of Portugal, Malaysia, and Singapore demonstrate that treatment-oriented policies can coexist with firm enforcement against illicit trafficking. For Indonesia, the relevant lesson lies in strengthening early classification, the evidentiary function of integrated assessment, community-based rehabilitation, and continued supervision after treatment. These elements are consistent with Bentham's utilitarian reasoning because the justification for rehabilitation depends on the benefits actually produced, including recovery, relapse prevention, social reintegration, and reduction of unnecessary suffering.

The analysis of these stages is also connected with Friedman's Legal System Theory. Clear formulation requires adequate legal substance, accurate application depends on a functioning legal structure involving investigators, prosecutors, judges, assessment teams, and rehabilitation institutions, while successful execution is influenced by institutional capacity and a legal culture that recognizes rehabilitation as a legally accountable treatment measure. The stages of criminal law policy and the elements of the legal system therefore operate as complementary analytical dimensions in explaining both the design and the implementation of rehabilitation.

The resulting model places accurate classification as the starting point, integrated assessment as the evidentiary basis, reasoned law-enforcement and judicial decisions as the mechanism for selecting the appropriate legal response, and medical and social rehabilitation as a continuous recovery process supported by periodic evaluation and post-rehabilitation assistance. Under this construction, rehabilitation achieves utilitarian justice when it produces measurable recovery and social protection while avoiding unnecessary suffering that may arise from imprisonment of persons whose principal condition is narcotics dependence. This model also shows that the effectiveness of rehabilitation depends not only on the existence of legal provisions, but on the interaction between clear rules, institutional performance, legal attitudes, and continuity across the formulation, application, and execution stages.

The novelty of this study lies in proposing a continuous rehabilitation legal-policy model for victims of narcotics misuse. The model places accurate legal classification as the starting point, followed by an integrated legal, medical, and psychosocial assessment as the evidentiary basis for determining the appropriate legal response. The assessment results must then be translated into reasoned prosecutorial and judicial decisions, individualized medical and social rehabilitation, periodic evaluation of recovery, and post-rehabilitation supervision to prevent relapse and support social reintegration. Unlike an approach that treats rehabilitation merely as an alternative sanction imposed at the end of criminal proceedings, this model connects the formulation, application, and

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execution stages as a continuous process from the initial identification of the person's status to recovery and reintegration. The comparative experiences of Portugal, Malaysia, and Singapore further support the model through early classification, differentiated treatment pathways, community-based rehabilitation, and continued supervision. Bentham's utilitarian justice provides the basis for evaluating the benefits produced by the model, while Friedman's Legal System Theory explains the legal substance, institutional structure, and legal culture required for its implementation. The novelty therefore lies in the continuous rehabilitation legal-policy model itself, rather than merely in the integration of theoretical approaches.

D. Conclusion

The imposition of rehabilitation measures on victims of narcotics misuse is consistent with utilitarian justice when the legal response produces greater benefits than the harms associated with imprisonment. Rehabilitation is justified because it addresses dependence, supports physical and psychological recovery, reduces the risk of repeated narcotics use, and facilitates social reintegration while preserving legal responsibility. Its effectiveness, however, depends on the interaction of legal substance, legal structure, and legal culture. Clear rules must distinguish persons requiring treatment from those involved in illicit trafficking, institutional actors must apply assessment and rehabilitation provisions consistently, and rehabilitation must be understood as an accountable legal measure rather than as leniency. Bentham's utilitarian justice therefore explains the benefits that justify rehabilitation, while Friedman's Legal System Theory explains the conditions necessary for those benefits to be realized.

The legal policy on rehabilitation must operate continuously through the formulation, application, and execution stages. The formulation stage requires coherent criteria for classification and a clear legal position for integrated assessment; the application stage requires early assessment, accurate identification of the person's role and degree of dependence, and reasoned prosecutorial and judicial decisions; while the execution stage requires individualized medical and social treatment, periodic evaluation, and post-rehabilitation support. The comparative experiences of Portugal, Malaysia, and Singapore reinforce this direction by demonstrating the importance of early differentiation between users requiring treatment and illicit traffickers, differentiated treatment pathways, community-based rehabilitation, and continued supervision after formal treatment. These experiences also show that a treatment-oriented approach can operate alongside firm criminal enforcement against illicit narcotics trafficking.

The implementation of these findings requires Indonesia to strengthen national guidelines for distinguishing addicts, victims of narcotics misuse, personal users, and persons involved in illicit trafficking; clarify when integrated assessment must be conducted and the evidentiary weight of its findings; and establish minimum standards for prosecutorial reasoning, judicial consideration, rehabilitation services, periodic evaluation, and post-treatment supervision. Rehabilitation should be developed as a continuous legal-policy process beginning with accurate classification and integrated assessment, followed by reasoned legal decision-making, individualized treatment,

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evaluation of recovery, and social reintegration. This approach would allow rehabilitation to function not merely as an alternative to imprisonment, but as a measurable and accountable legal response capable of producing recovery, preventing relapse, protecting society, and reducing unnecessary suffering.

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