

Reorientation of Sanctions for Drugs Users in The National Criminal Code from The Perspective of Pancasila Justice

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Abstract. *This study aims to analyze the regulation of sanctions for narcotics users in the Indonesian National Criminal Code, examine the concept of sanctions reorientation within the framework of criminal law reform, and assess its relevance from the perspective of Pancasila justice. The main issue lies in the dominance of repressive approaches, particularly imprisonment, in judicial practices, which often neglect humanitarian aspects and the need for rehabilitation. This research employs a normative legal method with statutory, conceptual, and case approaches. The data consists of primary, secondary, and tertiary legal materials analyzed qualitatively. The results indicate that although the National Criminal Code provides opportunities for the application of alternative sanctions and measures, including rehabilitation, its implementation remains suboptimal. The reorientation of sanctions for narcotics users should be directed toward a more humane, proportional, and recovery-oriented approach, in line with restorative justice principles. From the perspective of Pancasila justice, sentencing policies must reflect a balance between legal certainty, utility, and justice by recognizing narcotics users not only as offenders but also as victims who require protection and rehabilitation. Therefore, the reorientation of sanctions for narcotics users within the National Criminal Code represents a strategic step toward establishing a more just, humane, and Pancasila-based criminal justice system.*

Keywords: *Narcotics; Pancasila Justice; Sanction Reorientation.*

1. Introduction

The history of drug regulation in the Indonesian criminal justice system is inextricably linked to the development of colonial law, which initially viewed the use of addictive substances as a matter of public order and public health. During the Wetboek van Strafrecht (WvS) era, regulations regarding intoxicants were

more focused on repressive social control. This paradigm was then inherited and developed in the post-independence national legal system, which tended to position drug users as subjects who must be punished to maintain public order and security.¹

With the advancement of science and modern legal thought, the effectiveness and fairness of this repressive approach have begun to be questioned. Drug abuse is no longer understood solely as a criminal act, but also as a complex social and health phenomenon. In this context, drug users often find themselves in an ambiguous position: both perpetrators of the crime and victims of medical and psychological dependency.²

Drug abuse is a serious problem facing the Indonesian nation, directly impacting the quality of human resources, social order, and national resilience. The high rate of drug use, particularly among those of productive age, has the potential to weaken the nation's competitiveness and threaten the future of the younger generation. Therefore, criminal law policy in the field of narcotics has a strategic dimension that is not only legal, but also sociological and philosophical.

In law enforcement practice, drug users are often processed through criminal justice mechanisms that focus on imprisonment. This approach places imprisonment as the primary instrument in responding to drug abuse. As a result, the correctional system faces overcrowding, while the goals of punishment, namely rehabilitation and crime prevention, are not optimally achieved.³

As an empirical reflection of law enforcement practices in Indonesia, several court decisions in 2025 demonstrated inconsistencies in determining sanctions for drug users. In one case at the Rantau District Court in 2025, a defendant found guilty of possessing a relatively small amount of methamphetamine, approximately 0.28 grams, for personal use, was still sentenced to two years in prison. Although the judge imposed a sentence below the minimum sentence, the decision still reflected a dominant repressive approach, as it failed to prioritize rehabilitation as an alternative recovery for drug users.

Furthermore, in the Bandung District Court Decision Number 1119/Pid.Sus/2025/PN Bdg, the defendant was sentenced to 7 (seven) years in prison after being qualified as part of a narcotics distribution network. However, in practice, there is often an unclear boundary between users and traffickers, so that the construction of charges and evidence often expands the criminal responsibility of users into a more severe category. This condition shows that the

¹Hamzah, A. (2019). *Indonesian Criminal Law (Revised Edition)*. Jakarta: Sinar Grafika. pp. 45–47.

²United Nations Office on Drugs and Crime. (2018). *Drug dependence treatment: Interventions for drug users*. Vienna: UNODC. p. 12–15.

³Muladi. (2015). *Human rights and the criminal justice system*. Semarang: Diponegoro University Publishing House. pp. 89–92.

legal approach used in judicial practice still has the potential to shift the position of users from subjects who should be rehabilitated to perpetrators who are punished repressively.⁴

Furthermore, a 2025 academic study also revealed a case in which a student found in possession of a very small amount of narcotics, approximately 0.18 grams, was not sentenced to rehabilitation but was instead sentenced to prison. This occurred because the defendant was deemed not to meet the qualifications of a pure user, but rather to act as an intermediary. However, there were strong indications that the individual was a user. This phenomenon demonstrates that a formalistic legal approach often overlooks substantive aspects, particularly those related to dependency and the need for rehabilitation.

More broadly, judicial practice throughout 2025 demonstrated that not all drug abusers had access to rehabilitation, despite the normative possibility under Article 103 of the Narcotics Law and various Supreme Court policies. This reality highlights the gap between legal norms (*das sollen*) and their practical implementation (*das sein*), ultimately reinforcing the urgency of reorienting sanctions against drug users within a more humane national criminal law framework aligned with the values of Pancasila justice.⁵

Various studies of modern criminology and criminal law show that retributive punishment is not always effective in addressing crimes rooted in structural and individual issues, such as drug abuse. International criminal law experts, such as Cesare Beccaria and Herbert L. Packer, emphasize that punishment must be rational, proportional, and oriented toward social goals, not merely retribution.⁶

A similar view has been expressed by Indonesian criminal law experts, such as Barda Nawawi Arief and Muladi, who emphasize the importance of an integral and humanistic criminal policy. According to Barda Nawawi Arief, criminal law should be positioned as the *ultimum remedium*, so the application of imprisonment needs to be limited and balanced with more constructive sanctions.⁷

In the academic context of Unissula, Prof. Sri Endah Wahyuningsih emphasized that reform of national criminal law must be based on Pancasila values and oriented toward protecting human dignity. She argued that criminalization that

⁴Bandung District Court. (2025). Decision Number 1119/Pid.Sus/2025/PN Bdg. Accessed from the Directory of Decisions of the Supreme Court of the Republic of Indonesia.

⁵Indonesia. (2009). Law Number 35 of 2009 concerning Narcotics, Article 103; Supreme Court of the Republic of Indonesia. (nd). Circular Letter of the Supreme Court concerning the handling of narcotics cases.

⁶Beccaria, C. (1995). *On crimes and punishments* (Trans. R. Davies). New York: Cambridge University Press. p. 23–26

⁷Arief, BN (2011). *Criminal law reform from a comparative perspective*. Bandung: Citra Aditya Bakti. pp. 67–70

ignores humanitarian aspects has the potential to create structural injustice and distance the law from the goal of substantive justice.⁸This view is relevant in assessing criminalization policies for drug users.

The reform of criminal law through Law Number 1 of 2023 concerning the Criminal Code (National Criminal Code) introduces a new paradigm into the national penal system. The National Criminal Code no longer places imprisonment as the sole instrument, but instead opens up broader opportunities for the application of alternative punishments and measures, including rehabilitation and counseling.

Philosophically, this reform direction aligns with the values of restorative justice, which emphasizes the restoration of perpetrators, victims, and communities. In the context of drug users, this approach allows the state to provide a more proportional response oriented toward recovery, rather than simply punishment.

Reorienting sanctions for drug users becomes increasingly relevant when linked to Pancasila justice. Pancasila, as the foundation of the state and the source of all legal sources, embodies the values of Belief in One Almighty God, Just and Civilized Humanity, Indonesian Unity, Democracy, and Social Justice. These values demand that criminalization policies not only guarantee legal certainty but also uphold humanity and social justice.

From an Islamic legal perspective, drug abuse can be linked to the protection of reason (*ḥifẓ al-‘aql*) as one of the primary objectives of the *maqāṣid al-syarī‘ah* (Islamic principles). Therefore, a criminalization approach that focuses on restoring and preventing mental damage is more in line with the objectives of sharia than criminalization that is solely repressive.

The *Khaira Ummah Law Journal* also highlights that criminalization policies for drug users need to be geared toward rehabilitation as a form of human rights protection and the realization of substantive justice. This approach is considered more effective in reducing recidivism rates and restoring the social function of drug users.⁹

Thus, reorienting sanctions for drug users is not merely a legal technicality but also concerns the choice of values and the political direction of national criminal law. Criminalization policies that are not based on Pancasila values have the potential to create inequality in justice and deepen existing social problems.

Based on this description, this research is crucial to comprehensively examine and analyze how the reorientation of sanctions for drug users in the National

⁸Wahyuningsih, SE (2020). A model for criminal law reform based on Pancasila values. Semarang: Unissula Press. pp. 101–105

⁹Sutanto, H., & Rahmawati, N. (2022). Reorienting the punishment of drug users from a restorative justice perspective. *Khaira Ummah Law Journal*, 17(2), 245–260. pp. 252–255

Criminal Code can be implemented consistently with the values of Pancasila justice. This study is formulated in a thesis entitled "Reorientation of Sanctions for Drug Users in the National Criminal Code from the Perspective of Pancasila Justice."

2. Research Methods

This research uses a normative legal method, namely research that focuses on the study of applicable positive legal norms, whether derived from statutory regulations, legal principles, or legal doctrine. This research does not focus on empirical legal behavior in society, but rather positions law as a system of norms that regulates and guides human behavior.

The selection of this approach is based on the character of the problem being studied, namely regarding the concept of punishment and sanction policies against narcotics users in the National Criminal Code, which are basically normative and conceptual issues in the criminal law system.¹⁰

3. Results and Discussion

3.1. Regulation of sanctions against narcotics users in the National Criminal Code

The sanctions for drug users in the National Criminal Code reflect the development of criminal law thinking, which increasingly prioritizes a humanistic and just approach. In this context, drug users are no longer understood narrowly as criminals subject to repressive sanctions, but rather as legal subjects with complex social, psychological, and medical conditions that require a more comprehensive and proportionate approach.

Conceptually, a drug user refers to an individual who uses or consumes narcotics without authorization or against the law. In modern legal literature, this term is often equated with drug user, drug abuser, and drug-dependent person, reflecting a spectrum of conditions, ranging from experimental use to chronic dependence. This conceptual differentiation has significant legal implications, particularly in determining the form of criminal liability and the most appropriate type of sanctions to apply.

In the Indonesian legal system, regulations regarding narcotics remain specifically regulated by Law Number 35 of 2009 as *lex specialis*. However, the National Criminal Code provides a basic framework that determines the direction of criminal policy, particularly regarding the types of crimes and actions that can be imposed on perpetrators of criminal acts, including drug users.

¹⁰Soekanto, S., & Mamudji, S. (2015). Normative legal research: A brief review. Jakarta: Rajawali Pers, pp. 13–15.

The National Criminal Code demonstrates a paradigm shift from a retributive justice approach to a more integrative and restorative justice approach. This shift marks a fundamental shift in how criminals are viewed, no longer merely as objects of punishment, but as individuals with the potential to be improved and reintegrated into society.

One of the important updates to the National Criminal Code is the introduction of more varied and flexible types of punishment. In addition to imprisonment and fines, the National Criminal Code also regulates supervision, community service, and conditional sentences. This variety of punishments allows judges to impose more proportionate and contextual sanctions, particularly in dealing with drug users who are not always appropriately subject to imprisonment.

In the context of drug users, the application of alternative punishments is highly relevant. Supervision, for example, allows offenders to remain within their social environment with some supervision, allowing for a more effective and sustainable rehabilitation process. This approach also protects offenders from the negative impacts of imprisonment, such as stigmatization and social marginalization.

In addition to criminal penalties, the National Criminal Code also regulates measures (*maatregel*) oriented toward protection and improvement. Unlike repressive penalties, these measures emphasize rehabilitative and preventive aspects. In the context of drug users, rehabilitation is particularly relevant, as it aims to restore the physical and psychological condition of the perpetrator while preventing recurrence of the crime.

The provisions regarding this action demonstrate the synergy between the National Criminal Code and the Narcotics Law, particularly regarding the obligation to rehabilitate drug addicts. The provisions regarding medical and social rehabilitation, as stipulated in Articles 54 and 103 of the Narcotics Law, reinforce the recovery orientation within the national penal system.

Furthermore, the National Criminal Code emphasizes that imprisonment should be considered the *ultimum remedium*, the last resort in criminal law enforcement. This principle is particularly important in the context of drug users, given that imprisonment is often ineffective in addressing addiction issues and can even worsen the offender's condition.

An approach that prioritizes rehabilitation also aligns with the public health perspective, which views drug abuse as a public health issue. Within this framework, drug users are positioned as individuals in need of medical and social care, so the approach used is not solely penal, but also therapeutic and restorative.

From the perspective of Pancasila justice, sanctions for drug users must reflect just and civilized humanitarian values. This requires treatment that respects human dignity and takes into account the specific circumstances of the perpetrator. Thus, criminal law serves not only as a deterrent but also as a means of reconciliation (reconciliation), namely, efforts to improve individuals and restore social balance.

This view aligns with the thinking of Indonesian criminal law experts who emphasize the importance of a balance between community protection and offender rehabilitation. A humanistic and rehabilitative approach is considered more effective in achieving the goals of punishment than a purely repressive approach.

Narcotics law enforcement data also shows a high level of case disclosure by law enforcement officials. The National Narcotics Agency (BNN) uncovered 851 narcotics crimes with 1,350 suspects throughout 2022. In 2023, the National Narcotics Agency (BNN) successfully uncovered 37 narcotics syndicates, consisting of 15 national networks and 22 international networks. Furthermore, throughout 2024, the National Narcotics Agency (BNN) uncovered 620 narcotics crime cases with 985 suspects from 27 drug syndicates, comprising 13 national and 14 international networks. Furthermore, authorities also successfully seized various narcotics evidence in large quantities, including methamphetamine, marijuana, ecstasy, heroin, cocaine, and drug precursors. The high number of uncovered cases demonstrates that drug trafficking and abuse remain a real threat, necessitating legal policies that focus not only on punishment but also on the rehabilitation and recovery of drug users. This situation also demonstrates that a repressive approach alone has not been able to significantly reduce drug abuse, necessitating the implementation of a more humane penal system, as accommodated in the National Criminal Code.

Based on the research results, it was found that the sanction policy for drug users in the National Criminal Code has normatively accommodated a rehabilitative approach through alternative punishments and rehabilitation measures. However, in law enforcement practice, there is still a tendency to use imprisonment as the primary response to drug users. This situation indicates a gap between the direction of criminal law reform, which is oriented toward recovery, and the implementation of criminal policy in the field, which still tends to be repressive.

The research findings show that the high rate of drug abuse and the continued dominance of imprisonment for drug users indicate that the repressive approach to punishment has not fully achieved its intended goals. This condition can be analyzed using the Theory of the Purpose of Punishment (*Doelstraf Theorie*), which views punishment as a means to achieve social goals such as rehabilitating perpetrators, preventing crime, and protecting society. From this theoretical

perspective, punishment for drug users should not only be oriented towards punishment, but also directed towards medical and social rehabilitation to restore the perpetrator's condition from drug dependence. Therefore, the existence of alternative punishments and rehabilitation measures in the National Criminal Code is a form of implementation of the objectives of modern punishment, which emphasizes treatment rather than punishment.

Further analysis shows that the sanction policy for drug users in the National Criminal Code is also in line with the Pancasila Theory of Justice, which places humans as the primary subject in law enforcement. Justice, from a Pancasila perspective, is measured not only by the formal application of norms but also by the law's ability to protect human dignity and achieve social welfare. In many cases, drug users act not only as perpetrators of criminal acts but also as victims of addiction in need of help and recovery. Therefore, the rehabilitation policy accommodated in the national criminal justice system reflects the just and civilized values of humanity as embodied in the second principle of Pancasila and supports the realization of social justice for all Indonesian people, as mandated by the fifth principle of Pancasila.

From the perspective of Islamic law through the theory of Maqāṣid al-Syarī'ah, the regulation of sanctions for drug users also has a strong relevance to the goal of protecting the mind (ḥifẓ al-'aql) and soul (ḥifẓ al-nafs). Narcotics are substances that can damage the function of the mind, disrupt mental health, and cause various detrimental social impacts. Therefore, an approach that is solely oriented towards imprisonment is not always able to eliminate the root of the problems faced by drug users. In contrast, medical and social rehabilitation is more in line with the objectives of sharia because it is oriented towards restoring the physical and psychological condition of the perpetrator so that he can restore his mind function and live a normal life in society. This approach reflects the principle of benefit (maṣlaḥah), which is the main objective of Islamic law.

Based on these three theories, it can be understood that the direction of sanction policy for drug users in the National Criminal Code has demonstrated a paradigm shift from a purely repressive approach to a more rehabilitative, humanistic, and recovery-oriented approach. However, research results indicate that the implementation of this approach still faces various obstacles, particularly the continued dominance of imprisonment in law enforcement practices. Therefore, it is necessary to optimize the implementation of rehabilitation, increase the capacity of rehabilitation institutions, and strengthen the understanding of law enforcement officials so that the objectives of punishment, the values of Pancasila justice, and the principle of public welfare in Islamic law can be realized more effectively in handling drug users.

Thus, the provisions on sanctions for drug users in the National Criminal Code demonstrate a paradigm shift in Indonesian criminal law. The law is no longer

solely focused on punishment but has evolved into a more flexible, humane, and rehabilitation-oriented instrument.

Ultimately, this approach is expected to create a more effective, just, and responsive criminal justice system addressing the complexities of drug crimes. Within this framework, criminal law serves as a means to achieve reconciliation (reconciliation) and maintain sustainable balance and harmony in social life.

3.2. The concept of reorienting sanctions for narcotics users within the framework of national criminal law reform

The concept of reorienting sanctions for drug users within the framework of national criminal law reform is a manifestation of a shift in the sentencing paradigm from a retributive justice approach to a more humanistic approach, namely restorative justice and rehabilitative justice. This shift positions drug users not merely as perpetrators of criminal acts but also as victims of substance abuse that leads to dependency, thus necessitating a recovery-oriented approach.

Conceptually, reorienting sanctions can be understood as a systematic effort to reorganize the goals, forms, and mechanisms of punishment to align with the values of substantive justice. From Herbert L. Packer's perspective, the criminal justice system must maintain a balance between the crime control model and the due process model, so that protection for society does not compromise the rights of individual perpetrators.

In the development of modern criminal law, punishment is no longer solely oriented toward retribution, but also focuses on improving the offender and preventing crime. Andrew Ashworth emphasized that the principles of proportionality and individualization of punishment are key to determining the appropriate type of sanction, particularly for offenders in a state of dependency.

In the context of Indonesian positive law, the reform of criminal law through the National Criminal Code (Law No. 1 of 2023) emphasizes a more flexible approach through the recognition of alternative punishments and measures. This is reflected in the provisions regarding the objectives of punishment, which emphasize restoring balance and developing the perpetrator, rather than solely retaliation.

Specifically, regulations regarding drug users are contained in Law Number 35 of 2009 concerning Narcotics. Article 54 states: "Drug addicts and victims of drug abuse are required to undergo medical and social rehabilitation."

Furthermore, Article 103 paragraph (1) states: "The judge examining the case of a narcotics addict may decide to order the person concerned to undergo treatment and/or care through rehabilitation." This provision shows that

normatively, Indonesian law has recognized the rehabilitative approach as part of the criminal justice system.

However, Article 127 paragraph (1) of the Narcotics Law still stipulates that: "Every narcotics abuser in class 1 for himself shall be punished with a maximum prison sentence of 4 (four) years." This norm is often the basis for the criminalization of narcotics users, thus giving rise to tension between repressive and rehabilitative approaches in law enforcement practices.

The research found a dualistic approach to sentencing drug users in Indonesian law. On the one hand, Articles 54 and 103 of the Narcotics Law prioritize rehabilitation as a form of recovery for drug addicts and victims of drug abuse. On the other hand, Article 127 of the Narcotics Law still provides the basis for imposing prison sentences on drug users. This situation indicates that the direction of criminal law reform toward a rehabilitative approach has not been fully and consistently implemented in the national legal system.

Based on the research results, it was found that the concept of reorienting sanctions against drug users in the reform of national criminal law has essentially gained a fairly strong normative foundation through the regulation of medical rehabilitation and social rehabilitation in Law Number 35 of 2009 concerning Narcotics and the recognition of alternative punishments and actions in the National Criminal Code. However, the implementation of this policy has not been fully optimal because there is still a tendency to use imprisonment as the primary form of sanction against drug users.

Data from the National Narcotics Agency (BNN) shows that the prevalence of drug abuse in 2021 reached approximately 3.66 million people aged 15–64. Furthermore, the BNN uncovered 851 drug-related crime cases with 1,350 suspects in 2022. In 2023, 37 drug syndicates were uncovered, consisting of 15 national networks and 22 international networks. Furthermore, in 2024, the BNN uncovered 620 drug-related crime cases with 985 suspects from 27 drug syndicates. These data demonstrate that drug abuse and distribution remain a serious problem, necessitating a reorientation of more effective and recovery-oriented criminal justice policies.

From an Islamic legal perspective, the rehabilitative approach aligns with the concept of Islam, which emphasizes individual improvement and recovery. Drug abuse is viewed as a form of deviant behavior that requires ongoing moral and spiritual development, not simply a repressive, punitive approach.

Various empirical studies in the scientific literature, including those published in the *Khaira Umma* journal, demonstrate that the rehabilitation approach is more effective in reducing recidivism rates than imprisonment. This finding strengthens the argument that reorienting sanctions not only has a normative basis but is also supported by strong empirical evidence.

Internationally, policies such as Portugal's drug decriminalization offer concrete examples of the success of a public health approach. This policy has been proven to reduce overdose deaths and increase rehabilitation success rates for drug users, demonstrating the effectiveness of a non-penal approach to combating drug abuse.

Reorienting sanctions also requires comprehensive institutional strengthening, particularly in the provision of adequate rehabilitation facilities and increased coordination among law enforcement agencies. Without the support of an integrated system, rehabilitation-oriented policies may not be optimally implemented.

Within the framework of the National Criminal Code, the implementation of the double-track system is a crucial aspect that needs to be emphasized. This system accommodates two paths of sanctions: criminal and disciplinary action, which can be applied proportionally. In this context, rehabilitation as a form of action must be positioned as the primary alternative for drug users, especially those experiencing dependence.

Furthermore, the successful implementation of this policy is crucially determined by a paradigm shift among law enforcement officials. A therapeutic jurisprudence approach needs to be internalized so that the law functions not only as an instrument of social control but also as a means of individual recovery and healing.

Thus, reorienting sanctions for drug users is a strategic step toward realizing a more just, humane, and utility-oriented criminal justice system. This approach aims not only to protect society from the dangers of drugs but also to provide space for users to recover and reintegrate into society.

Ultimately, the success of sanctions reorientation depends heavily on regulatory harmonization, consistent law enforcement, and broad public support. From the perspective of Pancasila justice, this policy reflects a balance between the values of justice, expediency, and humanity as fundamental goals of national law.

3.3. Reorientation of sanctions for narcotics users in the National Criminal Code reviewed from the perspective of Pancasila justice

The reorientation of sanctions for drug users in the National Criminal Code is an essential part of the agenda for criminal law reform in Indonesia, grounded in the Pancasila values of justice. This concept not only reflects changes in the technical aspects of criminal punishment but also demonstrates a philosophical transformation from a punitive paradigm to a rehabilitation paradigm more oriented toward humanitarian values.

From a theoretical perspective, the reorientation of sanctions can be interpreted as an effort to reposition the objectives of punishment from a retributive justice approach to restorative justice and rehabilitative justice. This shift positions criminal law not merely as an instrument of retribution, but also as a means to reform perpetrators and restore the social balance disturbed by criminal acts.

Pancasila justice, as the philosophical foundation of national law, requires a balance between legal certainty, utility, and justice. This value is rooted in the second and fifth principles, which emphasize the importance of respecting human dignity and realizing social justice for all people.

In this context, drug users are no longer viewed solely as offenders, but also as victims of substance dependence. Therefore, sentencing policies must proportionally consider the protection and rehabilitation of individuals.

Normatively, the National Criminal Code (Law Number 1 of 2023) has accommodated this approach through regulations regarding actions (*maatregelen*). Article 105 paragraph (1) states: "Rehabilitation measures are imposed on defendants who are addicted to narcotics, psychotropics, and other addictive substances."

Furthermore, Article 105 paragraph (2) states: "Rehabilitation as referred to in paragraph (1) includes medical rehabilitation, social rehabilitation, and psychosocial rehabilitation." This provision reflects that national criminal law has accommodated the urgency of comprehensive individual recovery, which not only includes the physical dimension, but also includes psychological and social aspects as a complete unit.

From the perspective of legal protection based on humanitarian values, this situation reflects a normative tension between the objectives of punishment and the principle of individual protection. As Sri Endah Wahyuningsih argues, the law should not only function as an instrument of punishment, but also as a means of protecting and restoring human dignity in its entirety, including for those in vulnerable situations such as drug abusers. Therefore, the provisions in this Article need to be interpreted progressively to align with the rehabilitative approach which places recovery as the main objective in the justice system.

From the perspective of Pancasila justice, this dualism needs to be reconstructed to place greater emphasis on humanitarian values. A rehabilitative approach aligns with the principles of respect for human dignity and individual recovery as part of substantive justice oriented toward social welfare.

The problem in this research is that the meaning of Pancasila justice is not only understood as imposing sanctions on drug abusers, but also as an effort to achieve a balance between community protection and individual recovery. Just and civilized humanitarian values require that drug users be treated according to

their actual condition as individuals experiencing dependence and needing assistance to recover. Meanwhile, the value of social justice demands that the legal system be able to provide real benefits to society by reducing drug abuse rates and preventing recidivism. Therefore, reorienting sanctions from imprisonment to rehabilitation is a more substantive form of implementation of Pancasila justice because it not only provides legal certainty but also provides benefits and protection for human dignity.

John Rawls's thinking on justice as fairness emphasizes that justice must be understood as a principle that guarantees equal and proportional treatment for every individual, including vulnerable groups such as drug users. Within this framework, justice is not only oriented toward the formal distribution of rights and obligations but also takes into account the actual conditions of individuals to achieve substantive balance in social life.

In line with this, Herbert L. Packer argued that the ideal criminal justice system should maintain a balance between effective law enforcement and the protection of individual rights. Through the integration of the crime control model and the due process model, criminal law is expected to avoid being trapped in a purely repressive approach, but rather to uphold the principles of justice and respect for human rights.

In the context of national law, Muladi emphasized that the criminal justice system must be developed in an integrated manner, combining social defense and offender treatment. This approach reflects the fact that criminal justice serves not only as a means of retribution but also as a developmental tool oriented toward social reintegration.

Furthermore, Barda Nawawi Arief emphasized that criminal policy should prioritize a non-penal approach as a more effective, rational, and just strategy for combating crime. This approach places alternative sanctions, such as rehabilitation, as a crucial component of a criminal law system that prioritizes utility and humanity.

The concept of depenalization has become increasingly relevant within the framework of criminal law reform, particularly in efforts to reduce the dominance of imprisonment by replacing it with more proportionate and humane alternative sanctions. This approach not only reflects a paradigm shift from a punitive orientation to one of rehabilitation, but also demonstrates the awareness that not all forms of violations must be resolved through repressive criminal mechanisms.

In line with Eko Soponyono's view, criminal law policy should be directed toward the use of effective, selective sanctions, and oriented toward broader social goals, including community protection and the rehabilitation of offenders. In this context, depenalization not only serves to reduce overcrowding in correctional

institutions but also prevents the negative impact of prolonged social stigmatization of offenders, which can actually hinder reintegration into society. Therefore, the application of alternative sanctions such as rehabilitation, counseling, or other social measures is a more constructive instrument in achieving the goals of a just criminal justice system.

Thus, drug abusers are not positioned solely as those who must be punished, but rather as individuals who require ongoing guidance, rehabilitation, and support to return to their normal social functions. This approach reflects the harmony between Islamic values, the principles of *maqāṣid al-sharī'ah*, and the objectives of Islamic law, which are oriented toward the benefit (*maṣlaḥah*) and the prevention of harm (*mafsadah*) in human life.

Furthermore, this thinking aligns with Sri Endah Wahyuningsih's view that law, from an Islamic perspective, functions not only as an instrument for enforcing norms but also as a means of protecting and restoring human dignity in its entirety. Therefore, a rehabilitative approach reflects a concrete effort to realize the goal of law that is oriented toward the welfare (*maṣlaḥah*), namely maintaining and restoring the balance of individual and societal life in a sustainable manner.

Empirical studies emerging in various scientific literature indicate that the rehabilitative approach is significantly more effective in reducing recidivism rates than conventional imprisonment. Findings from various journals, including those presented by Khaira Umma, emphasize that rehabilitation focuses not only on stopping abusive behavior but also addresses the individual's ongoing psychological, social, and functional recovery. Therefore, rehabilitation is seen as more effective in promoting social reintegration and preventing future recurrence of crime.

Internationally, Portugal's drug decriminalization policy has demonstrated significant success through the implementation of a public health approach. This policy no longer views drug users solely as criminals but rather as individuals in need of comprehensive medical and social intervention. Implementation of this policy has been proven to reduce overdose deaths, mitigate the spread of drug-related diseases, and increase the rate of recovery and sustainable social reintegration of users.

As Caitlin E. Hughes and Alex Stevens point out, Portugal's experience provides a crucial lesson: an approach focused on public health and harm reduction is more effective than a repressive, punishment-based approach. This approach not only reduces the burden on the criminal justice system but also strengthens human rights protections and the holistic recovery of individuals.

Portugal's experience demonstrates that drug user management can be guided by a public health approach without neglecting crime control. Under this system,

drug users caught for personal use are prioritized for assessment, counseling, rehabilitation, and social supervision, rather than imprisonment. This concept can be elaborated in Indonesian law enforcement by strengthening integrated assessment mechanisms, optimizing medical and social rehabilitation, and granting judges broader authority to impose rehabilitation rather than imprisonment for users proven to be dependent. This model can still be implemented within the national legal framework because it aligns with the double-track system in the National Criminal Code, the rehabilitation principles in the Narcotics Law, and the values of humanity and social justice that underlie Pancasila Justice.

Reorienting sanctions in handling drug users necessitates comprehensive institutional strengthening, particularly through the provision of adequate rehabilitation facilities and increased synergistic coordination among law enforcement agencies. Without the support of an integrated institutional structure, the implementation of recovery-oriented policies has the potential to be suboptimal.

Within the framework of the National Criminal Code, the implementation of the double-track system is seen as a crucial instrument for achieving flexibility in the imposition of criminal sanctions. This system empowers judges not only to impose sentences but also to apply measures (*maatregel*) proportionally to the specific circumstances of the offender. This creates room for a combination of punishment and measures, allowing a rehabilitative approach to be positioned as a preferred alternative, particularly for drug users who are dependent. This approach aligns with Barda Nawawi Arief's view, which emphasizes the importance of an integral criminal law policy, namely harmonizing the function of protecting society with efforts to rehabilitate offenders in a balanced manner.

Furthermore, the paradigm shift of law enforcement officers is a key factor in determining the successful implementation of this policy. In this context, a therapeutic jurisprudence approach needs to be internalized into judicial practice, so that the law is not merely understood as an instrument for enforcing norms, but also as a means of contributing to the restoration of social conditions and the healing of individuals in conflict with the law. Thus, the function of law evolves beyond repression to corrective and rehabilitative roles, as emphasized in the principle of therapeutic jurisprudence, which places psychological aspects and individual well-being as a crucial part of the legal process.

Thus, the reorientation of sanctions for drug users reflects a progressive effort to build a more just, humane, and utility-oriented criminal justice system. This approach aims not only to protect society from the negative impacts of drug abuse but also to provide space for individuals to undergo recovery and social reintegration.

Ultimately, the success of the sanctions reorientation depends heavily on regulatory harmonization, consistency in law enforcement, and active public support. From the perspective of Pancasila justice, this policy represents a balance between the values of justice, expediency, and humanity as fundamental goals of the national legal system.

4. Conclusion

Based on the results of research and discussion regarding the regulation and reorientation of sanctions for narcotics users in the National Criminal Code from the perspective of Pancasila justice, several conclusions can be drawn as follows: 1. The provisions on sanctions for drug users in the National Criminal Code demonstrate a paradigm shift in punishment from a repressive approach to a more humanistic and rehabilitative one. This is reflected in the recognition of various types of alternative punishments and measures (*maatregel*) that prioritize rehabilitation as the primary instrument in handling drug users, in line with the principle of *ultimum remedium* in modern criminal law. 2. The reorientation of sanctions for drug users within the framework of national criminal law reform reflects the integration of penal and non-penal approaches through the implementation of a double-track system. This approach emphasizes that drug users are not merely viewed as criminals but also as individuals in need of rehabilitation, making rehabilitation policies a key instrument in realizing corrective and restorative justice. 3. From the perspective of Pancasila justice, the reorientation of sanctions against drug users reflects the implementation of just and civilized humanitarian values and social justice. This orientation emphasizes that the goal of criminal punishment is not merely punishment, but also restoration of human dignity, social reintegration, and the creation of a balance between the interests of the individual, society, and the state.

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