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## Restoration of Justice Through Rehabilitation As a Critical Review of The Effectiveness of Article 54 of The Narcotics Law As a Paradigm of Modern Criminal Prosecution

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**Abstract:** Restorative justice demands a shift from punishment to rehabilitation. Article 54 of the Narcotics Law mandates rehabilitation as an obligation for addicts, shifting the criminal paradigm from punishment to protection and rehabilitation. This rehabilitation reflects the values of restorative justice, which emphasize social and personal recovery from drug abuse. This study aims to examine the position of Article 54 of Law Number 35 of 2009 concerning Narcotics within the framework of modern criminal justice and the concept of restorative justice, as well as to examine the implementation of rehabilitation for drug addicts as a form of recovery approach compared to punishment. The method used is normative juridical with a statutory and conceptual approach, through an analysis of positive legal norms and their relevance in the criminal justice system in Indonesia. The results of the discussion indicate that Article 54 of Law No. 35 of 2009 has an important position in the framework of modern criminalization and restorative justice, by emphasizing medical and social rehabilitation for addicts and victims of drug abuse, rather than punishment. In its implementation, although normatively it reflects a healing approach and protection of human rights, implementation in the field still faces obstacles such as limited facilities, social stigma, and weak support from officials, thus requiring strengthening of policies and institutions.

**Keywords :** justice restoration, rehabilitation, modern sentencing paradigm

### INTRODUCTION

The paradigm shift in the criminal justice system has become a major focus in the development of criminal law in contemporary Indonesia. Criminalization is no longer solely based on the concept of punishment, but has begun to incorporate restorative and rehabilitative values as part of the restoration of justice. Law -Number 35 of 2009 concerning Narcotics (hereinafter referred to as the Narcotics Law) clarifies the rehabilitation position for drug addicts and victims of drug abuse through the provisions of Article 54, which mandates medical and social rehabilitation (Siti Aisyah, Harun Harun, and Ramziati, 2024).

Legal obligations, regulated forms of rehabilitation, and their implementation are legally positive. However, the

theoretical aspects of whether Article 54 reflects the modern sentencing paradigm, including restorative justice, have rarely been studied in depth. Punishment and rehabilitation schemes are often treated as administrative options or complements to criminal sanctions, rather than as the core of a restorative justice approach.

The novelty of this research lies in several aspects that have not been widely explored in Indonesian literature. First, this study links Article 54 of the Narcotics Law with the concepts of restorative justice and modern criminal justice, positioning rehabilitation as a restoration of justice, not merely a formal obligation or administrative sanction. Second, this study examines whether the regulation actually promotes a healing paradigm, rather than a retaliatory paradigm. Third, it offers the

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perspective that the success rate of drug addict rehabilitation can be an indicator of the modernization of Indonesian criminal law.

Restorative justice, within the context of criminal law, emphasizes victim recovery, accountability for the perpetrator, and community and social involvement in repairing the damage caused by the crime.<sup>1</sup> If Article 54 of the Narcotics Law is interpreted through a restorative justice lens, rehabilitation is not an additional punishment or administrative procedure, but rather an integral part of the legal response to drug abuse.

The Narcotics Law, particularly its provisions for medical and social rehabilitation for drug addicts and victims of abuse, holds great potential to transform the paradigm of criminal justice in Indonesia. However, this potential requires a critical analysis of how the text of this regulation is interpreted by law enforcement, how the rehabilitation process is implemented, and how social and local experiences demonstrate whether rehabilitation is truly -restorative and restorative.

There are several studies in the empirical literature relevant to the implementation of rehabilitation. One study in Lhokseumawe City showed a decline in the number of addicts undergoing medical and social rehabilitation as stipulated in Law Number 35 of 2009, raising questions about the effectiveness of this regulation in ensuring access to rehabilitation for all eligible addicts.<sup>2</sup>

<sup>1</sup>Hariman Satria, "Restorative Justice: A New Paradigm of Criminal Justice," *Journal of Legal Media* 25, no. 1 (2018): 111–123

<sup>2</sup>Anisya Ramdlonaning and Eva Achjani Zulfa, "Analysis of Rehabilitation Policy for Drug Abusers in Indonesia," *Jurnal Ius Constituendum* 8, no. 1 (2024): 50–65

Although regulations exist, their implementation still faces significant obstacles, both in terms of administration, institutional capacity, and social support.<sup>3</sup> Rehabilitation is judged not only by the existence of regulations, but also by the quality of their implementation: the extent to which rehabilitation is comprehensive (covering medical, psychological, and social aspects), whether rehabilitation facilitates social reintegration, and whether stigma against addicts is minimized. Support from family, the surrounding environment, and internal factors such as a strong will are crucial in the process of life recovery after rehabilitation.<sup>4</sup>

It's important to recognize that criminal law modernization is measured not only by the intensity of punishment but also by how the legal system can provide space for recovery and restorative justice. Rehabilitation as a restoration of justice means that drug abusers are not seen merely as objects of punishment, but as legal subjects with the right to recover and become productive members of society.

In the context of national regulatory developments, while rehabilitation has been formulated in the Narcotics Law, its implementation is often inconsistent. Factors -such as the capacity of rehabilitation institutions, officials' understanding of restorative rehabilitation, criminal justice procedures that still

<sup>3</sup>Hayatun Nani, Johari J., and Ummi Kalsum, "Effectiveness of Narcotics Addict Rehabilitation According to Supreme Court Circular Letter Number 4 of 2010 (Research Study at the National Narcotics Agency, Lhokseumawe)," *Scientific Journal of Law Faculty Students, Malikussaleh University* 4, no. 3 (2022): 25–40

<sup>4</sup>Benita Aryani and Krismi Diah Ambarwati, "Flourishing in Former Narcotics Users Who Have Been Rehabilitated," *Undiksha Scientific Journal of Guidance and Counseling* 14, no. 1 (2024): 55–66

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emphasize punishment, and social stigma pose obstacles to the recovery paradigm.<sup>5</sup>

The concept of recovery (healing) in modern criminal law implies that perpetrators/addicts are not only punished but also given the opportunity and facilities for physical, mental, and social recovery until they are able to reintegrate into society. Medical and social rehabilitation under the Narcotics Law should be an institutional instrument that bridges the gap between the law and the individual's recovery needs, not be stifled by the logic of retribution.

Legal academics and practitioners need to consider whether Indonesia's legal structure and criminal justice system provide adequate mechanisms to ensure that rehabilitation is not just an option, but the norm for drug addicts. By considering rehabilitation as an indicator of criminal law modernization, the research focus shifts from simply evaluating regulations to analyzing how those regulations are implemented, institutionalized, and experienced by addicts and victims.

Studies such as "Sentencing and Rehabilitation of Drug Dealers and Abusers" show that although the Narcotics Law authorizes judges to impose rehabilitation on addicts, access is limited and implementation is suboptimal.<sup>6</sup> Other studies, such as "Implementation of Medical and Social Rehabilitation for Drug Abuse Victims at the Lhokseumawe City National Narcotics Agency," show

that medical and social services are often disproportionate to existing needs.<sup>7</sup>

Studies on restorative justice in Indonesia more generally, for example in the articles " Restorative justice as a new paradigm of criminal justice" and " Restorative justice as a means of reforming the criminal justice system", show how normative shifts have begun to take place in several regulations such as the new Criminal Code and the juvenile criminal justice system, but not all of them specifically cover narcotics cases.<sup>8</sup>

Taking all of this context into account, Article 54 of the Narcotics Law emerges as a crucial object of study to understand the extent to which Indonesian criminal law incorporates rehabilitation as a restoration of justice, rather than simply as an alternative to punishment. An analysis of this regulation is expected to capture not only the legal text but also the reality of its implementation on the ground, allowing us to assess the extent to which the rehabilitation paradigm has become a reality.

Based on the description above, the problem formulation is:

1. **What is the position of Article 54 of the Narcotics Law within the framework of modern criminal law and the concept of restorative justice in Indonesia?**
2. **How does the implementation of rehabilitation for drug addicts based on Article 54 of the Narcotics Law reflect a healing paradigm compared to a punishment paradigm?**

<sup>5</sup>The Role of the National Narcotics Agency in Implementing Rehabilitation for Narcotics Addicts," *Jurnal Rectum: A Legal Review of Criminal Action Handling* 3, no. 1 (2023): 34–46

<sup>6</sup>Nanci Yosepin Simbolon, Ramsi Meifati Barus, and Alusianto Hamonangan, " Punishment and Rehabilitation of Drug Dealers and Abusers," *Al-Zayn: Journal of Social Sciences & Law* 3, no. 2 (2025): 100–112

<sup>7</sup>Virginia Garcia, Hari Sutra Disemadi, and Barda Nawawi Arief, " The Enforcement of Restorative Justice in Indonesian Criminal Law ," *Legality: Jurnal Ilmiah Hukum* 10, no. 2 (2022): 145–158

<sup>8</sup> Ibid

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## METHODS

This research uses a qualitative method with a normative-juridical and sociological-legal approach. The normative-juridical approach is used to examine applicable positive legal norms, particularly Article 54 of Law Number 35 of 2009 concerning Narcotics, as well as implementing regulations and international legal instruments relevant to the rehabilitative approach in handling drug abusers. Meanwhile, the sociological-legal approach is used to analyze the effectiveness of the implementation of these norms in practice, including the extent to which rehabilitation policies are able to realize the goals of restorative justice in the modern criminal justice system.

Data were collected through library research, which included analysis of legal documents such as laws, government regulations, implementing regulations of the National Narcotics Agency (BNN), and technical guidelines for rehabilitation-based sentencing. In addition, scientific literature was used in the form of legal journals, books on criminal justice theory, academic works on restorative justice, and reports from non-governmental organizations (NGOs) and state institutions dealing with narcotics policy. Documentation of actual cases of rehabilitation for drug abusers in Indonesia was also analyzed to demonstrate how these legal norms are implemented and the extent to which restorative justice principles are applied.

The analysis is conducted descriptively and analytically, systematically outlining the legal framework and rehabilitation policies within the Indonesian criminal justice system, and critiquing the effectiveness of Article 54 of the Narcotics Law from the perspective of modern criminal justice, which focuses on recovery rather than

retribution. The analysis focuses on examining whether the rehabilitative approach is truly capable of replacing the retributive sentencing paradigm in drug abuse cases, as well as identifying structural and cultural barriers that hinder the implementation of restorative justice.

## RESULTS AND DISCUSSION

### The Position of Article 54 of the Narcotics Law in the Framework of Modern Criminal Procedure and the Concept of Restorative Justice in Indonesia

Article 54 of Law No. 35 of 2009 mandates that drug addicts and victims of drug abuse are required to undergo medical and social rehabilitation. This norm not only considers rehabilitation an option but also a legal obligation, thus requiring the state, through its apparatus and institutions, to provide mechanisms and facilities to ensure the effective implementation of this obligation. In modern criminal justice theory, this norm reflects a shift from punishment alone to punishment that is responsive to the individual's circumstances, including their health and social well-being.

An analysis of the provisions of Article 54 shows a conflict of norms with other provisions in the Narcotics Law, particularly Article 127. Article 127 stipulates that drug abusers can be punished unless they are proven to be victims of abuse who meet the requirements for rehabilitation. The inconsistency in the definition and requirements between "addict" in Article 54 and the definition of abuser in other articles gives rise to legal uncertainty regarding the criteria for who must be rehabilitated and when rehabilitation can replace criminal punishment.<sup>9</sup>

<sup>9</sup>Amirotul Azizah & Putu Eka Trisna Dewi, "Reformulation of Rehabilitation Provisions for Narcotics Addicts in the Dimension of *Ius*

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The uneven distribution of rehabilitation facilities across regions presents a significant structural barrier. In rural areas, mental health facilities and medical rehabilitation centers are often lacking or non-existent. This results in unequal access to rehabilitation rights for residents in large cities and remote areas, distorting the implementation of Article 54's obligations: those legally entitled to rehabilitation still face criminal penalties due to the lack of available rehabilitation facilities.<sup>10</sup>

The capacity of integrated assessment institutions is a critical variable. Assessments conducted by a team of experts comprising medical, psychological, and social elements are seen as the entry point for determining the legal status of addicts or victims eligible for rehabilitation. If the assessment is invalid or omitted, the obligation to rehabilitate becomes futile -or merely a formality with no real impact, as law enforcement officials will choose criminal prosecution as a safer route in terms of legal certainty.

Article 54 contains elements of restorative justice through the recognition that drug abuse harms not only the state but also individual addicts/victims and society. Rehabilitation has the potential to restore social relationships, reduce stigma, and provide a path to social reintegration for recovering addicts. Despite the reference to<sup>11</sup> restorative justice norms , most judges' decisions regarding juvenile

drug abusers indicate that prison sentences are still frequently imposed, even though the children should be treated as addicts/victims rather than as perpetrators who must be punished.

Analysis of implementing regulations is crucial. The 2014 Joint Regulation between ministries/agencies and the Minister of Health's Regulation on technical guidelines for medical rehabilitation are crucial instruments for realizing the obligations of Article 54. However, these regulations are often lacking detailed operational guidelines, adequate budgeting, and implementation oversight, creating a gap between what is legally regulated and what is actually implemented on the ground.

Exploration of cases -of investigation termination based on restorative justice shows that several requirements must be met: the perpetrator must submit a request for rehabilitation, no involvement in a drug trafficking network, minimal evidence, and a positive drug test result. If all these requirements are met and the assessment finds the perpetrator fit, the criminal process can be terminated. However, obstacles often arise in public and official understanding, particularly the perception that terminating an investigation is seen as "letting the perpetrator go free."

The role of the Indonesian National Police (Polri) through Police Regulation Number 8 of 2021 is crucial because it regulates case resolution through restorative justice, including termination of investigations (SPPLidik -/SP3) in several narcotics cases. This instrument clarifies procedures. However, the implementation of SPPLidik/SP3 remains very limited. Many cases that meet the criteria are still subject to criminal charges due to authorities' lack of confidence in the

*Constituendum*," *Yusthima: Jurnal Hukum* , Vol. 3, No. 2 (2024), pp. 234-235 -.

<sup>10</sup>Priyana, Puti et al., "Implementation of Restorative Justice Principles for Drug Abusers in Karawang Regency," *DE'JURE Scientific Journal of Law: Legal Scientific Studies*, Vol. 3, No. 2 (2022), pp. 285-287 -.

<sup>11</sup>Arifai, Arifai, "Reasoning for Restorative Justice in Narcotics Crime Cases with Child Defendants," *Jurnal Judisial*, Vol. 13, No. 3 (2021), pp. -379-383



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legality of the termination or fear of uncertainty in court.<sup>12</sup>

The interaction between the norms of Article 54 and the juvenile criminal justice system reveals that Law -Number 11 of 2012 requires that criminal sanctions against children be a last resort (*ultimum remedium*). In practice, this often defeats the child's rights when judges emphasize the principle of legal certainty over the principles of benefit and restorative justice.<sup>13</sup>

An analysis of social benefits and human rights demonstrates that the rehabilitation obligation in Article 54 aligns with Indonesia's commitment to international human rights instruments, which emphasize the protection of drug addicts as a vulnerable group. This norm can be considered part of the implementation of the right to health, the right to protection from degrading treatment, and the principle of non-discrimination.

An evaluation of the effectiveness of restorative justice based on case data indicates that social stigma against addicts is a major barrier: addicts are reluctant or embarrassed to report for rehabilitation and prefer to remain silent, opening up the possibility of imprisonment upon arrest. Furthermore, authorities still believe that rehabilitation is "too soft" and lacks a deterrent effect, which is one reason for continuing to impose criminal penalties.

Article 54 has the potential to reduce overcrowding in correctional facilities, as many addicts can be diverted from prison through rehabilitation. The socioeconomic impacts of imprisonment, in addition to the costs of imprisonment itself, include

maintenance costs, lost productivity, and the psychological impact on families. Rehabilitation offers an alternative that, if properly managed, can reduce this burden. Harmonization of norms is needed to avoid multiple interpretations. Reformulating the terms "addict" and "abuser" and clarifying the relationship between Article 54, Article 127, and Article 103 are essential to ensure legal certainty for officials and judges in choosing rehabilitation versus imprisonment.

Procedural aspects require attention: the availability of self-reporting processes, integrated assessments, consent from perpetrators/victims, and procedures for terminating investigations must be clearly regulated to avoid concerns that terminating legal proceedings would mean impunity or being allowed to walk free without responsibility. Judges' thoroughness in considering decisions needs to be improved. Decisions against children and adults who meet the criteria for rehabilitation must state the reasons why rehabilitation was not granted, if a prison sentence is imposed. This is crucial to ensure judicial oversight and to ensure that Article 54 does not become merely an empty norm. Continuity between policy, regulation, practice, and oversight is key. The state must ensure that funding, officer training, rehabilitation facilities, assessment tools, and implementation monitoring are realized so that Article 54 can approach the ideal of restorative justice.

### **The Implementation of Rehabilitation for Narcotics Addicts Based on Article 54 of the Narcotics Law Reflects a Healing Paradigm Compared to a Punishment Paradigm**

Article 54 of Law Number 35 of 2009 concerning Narcotics normatively requires drug addicts and victims of abuse

<sup>12</sup>Riyansyah, Sintong Arion Hutapea, "The Effectiveness of Restorative Justice in Resolving Narcotics Abuse Cases in Indonesia," *Mahkamah: Jurnal Penelitian Ilmu Hukum*, Vol. 2, No. 2 (2024), pp. -82-84

<sup>13</sup>Arifai, Arifai, " op.cit, pp. 379 -383.

to undergo medical and social rehabilitation. This provision leaves no room for free interpretation, as it uses legally binding language. The requirement for rehabilitation demonstrates that the state views addicts as individuals in need of physical, mental, and social recovery, not simply as perpetrators of legal violations. This normative construction implies legal protection within a framework of healing, not retribution.<sup>14</sup>

The implementation of these norms continues to demonstrate various discrepancies between the substance of the law and the practices of law enforcement agencies. Many law enforcement officials do not consider rehabilitation as the primary option in handling drug cases involving addicts. The legal process continues within the criminal justice framework, with rehabilitation considered only as a last resort. This situation illustrates the differing perceptions of the status of addicts within the criminal justice system, even though legal norms require a restorative approach.

The rehabilitation process requires cross-sector coordination involving law enforcement officials, health agencies, and social institutions. However, coordination in many regions is ineffective. Many drug abuse cases are handled procedurally without including rehabilitation recommendations.<sup>15</sup> Integrated assessment mechanisms, which should be the initial step in determining the appropriate treatment for addicts, are not always implemented in a timely and proportionate manner. As a result, the right to

rehabilitation is often delayed or even denied.

The limited number of rehabilitation facilities in some regions presents a barrier that directly impacts the implementation of Article 54. Some areas lack specialized rehabilitation institutions or hospitals with drug dependency units. Under these circumstances, law enforcement officials often resort to detaining addicts due to the lack of readily accessible alternatives. This situation has transformed the requirement for rehabilitation into a repressive policy that places addicts back in a cycle of punishment that fails to address the root of the problem.

Administrative governance in the implementation of rehabilitation has not demonstrated integration across agencies. Integrated assessments, which should be used to measure rehabilitation needs, are often slow and not implemented immediately after arrest. In many cases, addicts are already in custody when new assessments are designed. This slow procedure has detrimental legal consequences for addicts, as the rehabilitation process does not run parallel to the criminal legal process imposed on them.<sup>16</sup>

Different interpretations of the boundaries between users, addicts, and dealers complicate the implementation of these norms. Addicts possessing a certain amount of drug evidence are often classified as dealers even though there is no trafficking element. As a result of this classification, rehabilitation is rejected and replaced with prison sentences. Law enforcement officials tend to use quantitative measures rather than an approach that addresses the psychological

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<sup>14</sup>Sari Lestari, *Legal Protection for Narcotics Addicts Post-Verdict*, Journal of Actual Legal Science, Vol. 4, No. 1, 2023, p. 112.

<sup>15</sup>Yusuf Ramadhan, *Implementation of Narcotics Rehabilitation Based on Law Number 35 of 2009*, Journal of Law and Development, Vol. 51, No. 2, 2021, p. 230.

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<sup>16</sup>Amirotul Azizah and Putu Eka Trisna Dewi, *Reformulation of Rehabilitation Provisions for Narcotics Addicts in the Dimension of Ius Constituendum*, Yusthima: Jurnal Hukum, Vol. 3, No. 2, 2024, p. 45.

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and medical conditions of users, resulting in under-reporting of rehabilitation, even when substantially needed.

The right to rehabilitation, as affirmed in Article 54, has not been accompanied by adequate legal protection during the judicial process. Defendants in drug cases are often still processed through a criminal justice system that emphasizes punishment. In some cases, rehabilitation applicants do not receive a substantive response because judges do not require a rehabilitation decision, even though the defendant medically meets the criteria for an addict requiring treatment.

In some regions, rehabilitation is only effective for addicts from certain economic backgrounds. Access to private rehabilitation facilities is more accessible to individuals from the upper middle class who can afford their own treatment and care. Conversely, addicts from low-income families are more likely to face criminal prosecution due to limited access to medical and social services. This disparity demonstrates that rehabilitation has not been implemented equally as a right for every citizen without discrimination.<sup>17</sup>

Coordination between law enforcement agencies and technical health agencies has not been established in a sustainable system. Many officers lack a comprehensive understanding of rehabilitation mechanisms and the necessary administrative requirements. The lack of technical training and detailed guidelines has led many officers to choose criminal action, perceived as easier to implement. However, the use of criminal sanctions against addicts actually contradicts the goals of rehabilitation as stipulated in Article 54.

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<sup>17</sup>Dhandy Parindo, *Critique of the Implementation of Rehabilitation in the Narcotics Law: Between Text and Legal Reality*, Indonesian Law Journal, Vol. 10, No. 1, 2023, p. 101.

Post-rehabilitation recovery does not receive serious attention from the legal system or government agencies. After the rehabilitation process is completed, many former addicts lack adequate social support. Adequate reintegration programs are lacking to ensure they can return to society safely and productively. This lack of support increases the risk of relapse and makes recovery efforts unsustainable. This demonstrates the need for rehabilitation to be accompanied by long-term protection measures.

Self-reporting as a pathway to rehabilitation has not been widely accepted as part of the exercise of rights. Addicts and their families remain hesitant or afraid to report themselves due to stigma and fear of arrest. Law enforcement officials have also not established a transparent and safe reporting system. This situation hinders the effective implementation of self-reporting, despite the law establishing it as a form of active participation in the recovery process.

State budget policy has not prioritized rehabilitation proportionally over treatment through the criminal justice system. Available government rehabilitation facilities can only accommodate a small fraction of the number of addicts requiring services. A shortage of medical personnel and inadequate supporting facilities hinder the rehabilitation process from running optimally. Without adequate budgetary support, recovery programs remain merely normative slogans that cannot be fully implemented within the law enforcement system.

Oversight of rehabilitation implementation has not been comprehensive and consistent. There is no audit mechanism or periodic evaluation of decisions made by investigators, prosecutors, or judges regarding rehabilitation. Decisions regarding whether

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an addict is eligible for rehabilitation are often made without transparency and without publicly accessible basis. This lack of transparency complicates oversight and weakens the accountability of institutions in carrying out the mandate of Article 54.

## CONCLUSION

The position of Article 54 of Law Number 35 of 2009 concerning Narcotics within the framework of modern criminal justice and restorative justice demonstrates a more progressive legal orientation. This article explicitly stipulates that drug addicts and victims of abuse are required to undergo medical and social rehabilitation. This provision represents the state's effort to shift the handling of narcotics cases from a retributive approach that solely emphasizes punishment, to a corrective and rehabilitative approach. Within the framework of modern criminal justice, Article 54 shifts the focus of the criminal justice system from the goal of punishment to the development and recovery of individuals. This aligns with the principle of restorative justice, which focuses problem solving on restoring social, psychological, and social relations, rather than simply seeking legal revenge against the perpetrator.

The implementation of rehabilitation for drug addicts based on Article 54 shows a strong tendency toward a healing paradigm, although in practice there are still imperfections in its implementation. Normatively, Article 54 reflects the spirit of protecting the human rights of addicts as individuals experiencing health problems, not merely as lawbreakers. This provision affirms that addicts need to receive treatment and recovery within an integrated medical and social framework. However, at the implementation level, structural, administrative, and cultural obstacles

remain that prevent rehabilitation from being optimal. Law enforcement officials, limited rehabilitation facilities, and the social stigma against addicts are often the main obstacles to the full realization of this healing paradigm. Thus, although legal norms have moved toward a recovery approach, technical implementation in the field still requires strengthening in terms of policy, resources, and changes in institutional orientation.

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