

## **Sentencing Narcotics Users through Integrated Assessment Based Rehabilitative Diversion after the National Criminal Code and the Criminal Provisions Adjustment Law**

**Panji Bangun Indriyanto**

Universitas Jenderal Soedirman, Purwokerto, Indonesia

Correspondence: [panji.indriyanto@mhs.unsoed.ac.id](mailto:panji.indriyanto@mhs.unsoed.ac.id)

Received: 28 May 2026

Accepted: 27 August 2026

Published: 31 August 2026

### **Abstrak**

Penyalahguna narkotika di Indonesia masih menyisakan problem regulasi karena belum adanya pemisahan yang tegas antara penyalahguna, pecandu, korban penyalahgunaan, dan pelaku peredaran gelap narkotika. Pasal 54 Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika telah mengatur kewajiban rehabilitasi medis dan sosial bagi pecandu serta korban penyalahgunaan narkotika, tetapi Pasal 127 masih membuka ruang pidana penjara bagi penyalahguna narkotika untuk diri sendiri. Persoalan ini semakin relevan pasca berlakunya KUHP Nasional dan Undang-Undang Penyesuaian Pidana, karena pembaruan hukum pidana nasional belum secara khusus merumuskan mekanisme diversi rehabilitatif yang tegas, wajib, dan mengikat sejak tahap awal proses peradilan pidana. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan perundang-undangan dan konseptual. Hasil pembahasan menunjukkan bahwa pemidanaan penyalahguna narkotika yang masih bertumpu pada penjara berpotensi memperbesar beban lembaga pemasyarakatan dan tidak selalu menjawab kebutuhan pemulihan. Oleh karena itu, diperlukan redesain pemidanaan melalui diversi rehabilitatif berbasis asesmen terpadu. Model ini menempatkan asesmen terpadu sebagai pintu awal untuk membedakan penyalahguna yang membutuhkan rehabilitasi dengan pelaku peredaran gelap yang harus ditindak tegas. Gagasan ini dapat diwujudkan melalui revisi Pasal 127 UU Narkotika, penguatan asesmen sejak tahap penyidikan, standar nasional asesmen, serta pengawasan rehabilitasi berbasis laporan berkala, konseling, evaluasi sosial, dan basis data terpadu.

**Kata kunci:** asesmen terpadu; diversi rehabilitatif; narkotika; pemidanaan; rehabilitasi.

### **Abstract**

*This article examines integrated-assessment-based rehabilitative diversion for narcotics users through proportional sentencing, differentiation of personal users from traffickers, recovery-oriented sanctions, and safeguards against misuse of diversion. It uses normative legal research and a structured analysis of applicable legal materials, supported by comparative and interdisciplinary scholarship where relevant. The revised analysis distinguishes legal design from empirical claims and identifies the principal regulatory or institutional gap. The study finds that existing law provides important but fragmented safeguards and that legal certainty depends on clearer decision criteria, procedural accountability, and proportionate remedies. It proposes an operational framework that specifies legal thresholds, institutional responsibilities,*

*safeguards, and review mechanisms. The article contributes a more explicit research gap, a reproducible doctrinal method, and a policy model calibrated to legality, proportionality, accountability, and rights protection.*

**Keywords:** *integrated assessment; rehabilitative diversion; narcotics; sentencing; rehabilitation.*

## INTRODUCTION

The narcotics problem in Indonesia has often been understood too simply: anyone connected with narcotics is treated as an offender who must be punished. This view arises from legitimate state concern about the serious dangers of narcotics. Narcotics can damage health, disturb social order, and become part of organized criminal networks. In practice, however, not everyone who encounters narcotics law occupies the same position. There are organizers, dealers, couriers, persons with dependence, victims of abuse, and persons who use narcotics for themselves. Applying the same sentencing approach to all these groups risks making criminal law disproportionate.<sup>1</sup>

The problem is visible in Indonesia's regulation of narcotics users. Law Number 35 of 2009 on Narcotics already recognizes a rehabilitative approach. Article 54 provides that persons with narcotics dependence and victims of narcotics abuse must undergo medical and social rehabilitation. The Law thus viewed narcotics from the outset not only as a criminal issue but also as a matter of health and recovery. At the same time, Article 127 still permits imprisonment of a person who uses narcotics for himself or herself. This is the fundamental difficulty: one provision directs persons with dependence and victims of abuse toward rehabilitation, while another leaves a route to prison open for users.<sup>2</sup>

The lack of a firm policy direction directly affects law-enforcement practice. Narcotics users for whom recovery would be more appropriate are often still placed on the criminal track. Prison is not an ideal setting for addressing narcotics dependence. It may deter in some cases, but for users or persons with dependence the underlying problem involves not only a legal violation but also health, psychological, and social conditions. A purely punitive approach may succeed in imprisoning a person without necessarily freeing that person from dependence.<sup>3</sup>

The issue becomes more serious when connected to the condition of correctional institutions. Data from the Ministry of Immigration and Corrections in April 2026 showed 271,468 occupants in Indonesian prisons and detention centers, comprising 215,156 convicted prisoners and 56,312 detainees. Overcapacity remained approximately 85 percent. These figures show the heavy burden carried by Indonesia's correctional system. Imprisonment of narcotics users must therefore be reconsidered: the more users sent to prison, the greater the correctional burden and the more remote the objective of rehabilitation becomes.<sup>4</sup>

---

<sup>1</sup> Andi Hamzah, *Asas-Asas Hukum Pidana* (Jakarta: Rineka Cipta, 2010).

<sup>2</sup> Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika, Pasal 54 dan Pasal 127.

<sup>3</sup> Fransilirus Nong Richi, "Implementasi Sistem Pemidanaan Dua Jalur (Double Track System) bagi Pelaku Penyalahguna Narkotika," *The Juris* 7, no. 1 (2023): 267–77, <https://doi.org/10.56301/juris.v7i1.952>.

<sup>4</sup> Kementerian Imigrasi dan Pemasarakatan Republik Indonesia, "Overkapasitas Lapas Menurun, Menteri Imipias Pertegas Komitmen Berantas Narkoba," April 10, 2026.

Overcapacity cannot be separated from the high number of narcotics cases in the correctional system. The Directorate General of Corrections recorded that 139,088 of 255,435 incarcerated persons in 2021 were held for narcotics cases. Narcotics are therefore a major contributor to congestion in prisons and detention centers. If users continue to be sentenced to imprisonment without a clear distinction from dealers or organizers, narcotics policy will keep increasing the burden on the correctional system.<sup>5</sup>

The transformation of national criminal law through Law Number 1 of 2023 on the National Criminal Code should provide momentum for reorganizing sentencing policy. The National Criminal Code is not merely a list of offenses; it brings a renewed orientation toward sentencing that is more proportionate and rational and is not based solely on imprisonment. Law Number 1 of 2026 on the Adjustment of Criminal Provisions also aligns criminal provisions outside the Criminal Code with the new national sentencing system. These reforms have not fully resolved the position of narcotics users, particularly the absence of a clear, mandatory, and binding rehabilitative-diversion mechanism from the earliest stage of criminal proceedings.

A rehabilitative orientation had already emerged in Attorney General Guideline Number 18 of 2021, which governs the resolution of narcotics-abuse cases through rehabilitation using a restorative-justice approach as an exercise of prosecutorial dominus litis. The Guideline indicates that narcotics users need not always be processed through to imprisonment. Its status, however, is limited to an internal prosecutorial guideline. It is not legislation that binds all law-enforcement authorities from investigation and prosecution through trial and execution of judgment.<sup>6</sup>

This produces the regulatory gap examined in the study. First, Article 54 of the Narcotics Law recognizes rehabilitation as mandatory for persons with dependence and victims of abuse, yet Article 127 permits imprisonment of users. Second, the National Criminal Code and the Criminal Provisions Adjustment Law changed the broader structure of national criminal law but did not specifically formulate rehabilitative diversion for narcotics users. Third, Attorney General Guideline Number 18 of 2021 promotes rehabilitation through restorative justice, but its sectoral character prevents it from binding every law-enforcement institution.<sup>7</sup>

This article therefore proposes rehabilitative diversion based on integrated assessment. Rehabilitative diversion means transferring a narcotics user's case from an imprisonment track to medical and social rehabilitation. The transfer must not be indiscriminate. An integrated assessment should involve investigators, prosecutors, the National Narcotics Board, physicians, psychologists, social workers, and correctional representatives. It would enable the state to distinguish

---

<sup>5</sup> Direktorat Jenderal Pemasyarakatan, "Mengurai Permasalahan Overcrowded di Lapas/Rutan," Direktorat Jenderal Pemasyarakatan, 2021, <https://www.ditjenpas.go.id/mengurai-permasalahan-overcrowded-di-lapasrutan>.

<sup>6</sup> Kejaksaan Agung Republik Indonesia, Pedoman Jaksa Agung Nomor 18 Tahun 2021 tentang Penyelesaian Penanganan Perkara Tindak Pidana Penyalahgunaan Narkotika Melalui Rehabilitasi dengan Pendekatan Keadilan Restoratif sebagai Pelaksanaan Asas Dominus Litis Jaksa.

<sup>7</sup> Kejaksaan Agung Republik Indonesia, Pedoman Jaksa Agung Nomor 18 Tahun 2021 tentang Penyelesaian Penanganan Perkara Tindak Pidana Penyalahgunaan Narkotika Melalui Rehabilitasi dengan Pendekatan Keadilan Restoratif sebagai Pelaksanaan Asas Dominus Litis Jaksa.

more clearly between a user or person with dependence and a person involved in an illicit narcotics network.

The model matters because rehabilitation must not be understood as release without responsibility. It requires supervision, periodic reports, health testing, counseling, social evaluation, and consequences for failure to comply. Rehabilitative diversion can thereby balance law-enforcement interests and recovery. The state remains firm toward dealers and organizers while avoiding treatment of users as equivalent to members of illicit-trafficking networks.

The article addresses two principal matters. First, it examines the regulatory problems surrounding the sentencing of narcotics users after the entry into force of the National Criminal Code and the Criminal Provisions Adjustment Law. This question is important because the Narcotics Law still reflects tension between rehabilitative and punitive approaches: Article 54 requires medical and social rehabilitation for persons with dependence and victims of abuse, whereas Article 127 permits imprisonment of users. That normative tension must be considered within national criminal-law reform.

Second, the article proposes integrated-assessment-based rehabilitative diversion as a redesigned sentencing model. It is not intended to eliminate legal responsibility, but to direct users shown to have dependence or to be victims of abuse toward a more appropriate recovery pathway. An integrated assessment by law-enforcement officials, the National Narcotics Board, medical professionals, psychologists, social workers, and correctional personnel can provide a more objective basis for deciding whether a person should enter rehabilitation or continue through criminal proceedings.

The recurrent doctrinal tension between Articles 54 and 127 of the Narcotics Law is well documented, yet the operational question remains unresolved: at what stage, on what criteria, and with what safeguards should an individual be diverted from punitive processing to rehabilitation? This article contributes an integrated-assessment model that treats assessment as a legal gateway rather than an optional administrative recommendation.

## **RESEARCH METHOD**

This study uses normative legal research with statutory, conceptual, and limited comparative policy approaches. The analysis reads the Narcotics Law together with the National Criminal Code, the Criminal Provisions Adjustment Law, prosecutorial restorative-justice instruments, and rules governing integrated assessment. Secondary literature on drug courts, diversion, correctional treatment, and rehabilitation is used to test the rationality of incarceration-centered policy. The proposed model is assessed against legality, proportionality, equality, clinical need, procedural timing, and safeguards against trafficking-related abuse. Empirical studies are used only as external evidence about treatment and recidivism; they are not presented as empirical findings of this normative study.

The study applies statutory and conceptual approaches. The statutory approach examines Law Number 35 of 2009 on Narcotics, especially Articles 54 and 127; Law Number 1 of 2023 on the National Criminal Code; Law Number 1 of 2026 on the Adjustment of Criminal Provisions; and Attorney General Guideline Number 18 of 2021 on resolving narcotics-abuse cases through rehabilitation and

restorative justice. Law Number 1 of 2026 aligns criminal provisions in legislation outside the National Criminal Code with Book One of that Code.

## RESULTS AND DISCUSSION

### **Regulatory Problems in Sentencing Narcotics Users after the National Criminal Code and the Criminal Provisions Adjustment Law**

The sentencing of narcotics users in Indonesia faces a fundamental problem. It arises not only because narcotics are regarded as a serious crime, but also because the law does not clearly distinguish the position of each person involved in a narcotics case. A case may include an organizer who controls a network, a dealer who sells for profit, a courier who transports goods, a person with dependence, a victim of abuse, or a person who uses narcotics for personal consumption. These different positions should be the primary basis for determining criminal responsibility.<sup>8</sup>

Sentencing practice often proceeds from an overly general logic: a person connected with narcotics is readily placed in the category of an offender who must be punished. Firm action against illicit trafficking is necessary because narcotics affect public health, community security, and organized crime. Firmness must not, however, eliminate the state's ability to distinguish among actors. An organizer cannot be equated with a personal user, nor a dealer who profits from transactions with a person suffering dependence. A uniform imprisonment approach deprives criminal law of proportionality.<sup>9</sup>

Normatively, Law Number 35 of 2009 on Narcotics does not employ an exclusively punitive approach. Treatment and rehabilitation form part of its central scheme. Article 54 provides that persons with narcotics dependence and victims of abuse must undergo medical and social rehabilitation. The provision shows legislative recognition of the health dimension of narcotics abuse. Certain users should be understood not only as lawbreakers but also as persons requiring medical and social recovery.<sup>10</sup>

That rehabilitative orientation is incomplete because Article 127 continues to permit imprisonment for personal narcotics use. On one hand, the Law mandates rehabilitation for persons with dependence and victims of abuse; on the other, it retains a criminal penalty for users. Their legal position is therefore uncertain. A person characterized as dependent or as a victim may be directed to rehabilitation, while a person characterized as a user under Article 127 may still be imprisoned.<sup>11</sup>

The tension between Articles 54 and 127 is not merely a matter of legislative drafting. It concerns the direction of narcotics penal policy. Once the state recognizes persons with dependence and victims of abuse as subjects who must be rehabilitated, it should establish a robust mechanism making rehabilitation their primary pathway. If imprisonment remains the easiest available option,

---

<sup>8</sup> Andi Hamzah, *Asas-Asas Hukum Pidana* (Jakarta: Rineka Cipta, 2010).

<sup>9</sup> Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana: Perkembangan Penyusunan Konsep KUHP Baru* (Jakarta: Kencana, 2017).

<sup>10</sup> Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika, Pasal 54.

<sup>11</sup> Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika, Pasal 127.



rehabilitation will depend on the interpretation of individual officials, and persons who in fact need recovery may not receive it.<sup>12</sup>

This situation also presents a problem of legal certainty. In a state governed by law, a person must be able to anticipate the legal consequences of conduct, and law-enforcement officials require clear criteria for determining the appropriate response. If the boundary between 'must be rehabilitated' and 'may be imprisoned' is not defined, similar cases may receive different treatment. One person may enter rehabilitation while another is imprisoned, leaving criminal law overly dependent on individual judgment rather than measurable rules.<sup>13</sup>

The problem became more pronounced after Law Number 1 of 2023 on the National Criminal Code entered into force. Book One of the National Criminal Code provides general rules guiding the application of Book Two, legislation outside the Code, and regional regulations unless legislation provides otherwise. The reform therefore did more than replace the previous Criminal Code; it established the general basis for the national sentencing system.<sup>14</sup>

This reformative spirit should influence the way the state approaches narcotics sentencing. Sentencing should not always be equated with imprisonment. Punishment remains necessary, but it must be proportionate. In narcotics cases, proportionality requires distinguishing persons dangerous to the wider community from users who require recovery. Yet the National Criminal Code did not automatically resolve the position of narcotics users because narcotics regulation still depends heavily on a special statute. As long as Article 127 permits imprisonment without a clear rehabilitative-diversion mechanism, users remain at risk of incarceration.<sup>15</sup>

Law Number 1 of 2026 on the Adjustment of Criminal Provisions was enacted to align criminal provisions outside the Criminal Code with Book One of the National Criminal Code. Its stated urgency includes avoiding disparities in law enforcement, duplication of criminal provisions, and adverse effects on legal certainty and the community's sense of justice. The Adjustment Law thus carries a harmonizing purpose so that criminal provisions outside the Code do not operate in isolation.<sup>16</sup>

In relation to narcotics users, however, the Adjustment Law does not address the central problem. The issue is not merely whether penalties under the Narcotics Law have been aligned with the National Criminal Code, but whether the law provides a clear mechanism for eligible users to be directed immediately to rehabilitation rather than prison. Without such a mechanism, harmonization remains confined to the level of penalties and does not address justice in the treatment of users.<sup>17</sup>

---

<sup>12</sup> Wenda Ulfa, "Dekriminalisasi terhadap Pasal 127 Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika," *Rio Law Jurnal* 1, no. 1 (2020): 1–11.

<sup>13</sup> Satjipto Rahardjo, *Ilmu Hukum* (Bandung: Citra Aditya Bakti, 2014).

<sup>14</sup> Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana.

<sup>15</sup> Fransilirus Nong Richi, "Implementasi Sistem Pemidanaan Dua Jalur (Double Track System) bagi Pelaku Penyalahguna Narkotika," *The Juris* 7, no. 1 (2023): 267–77, <https://doi.org/10.56301/juris.v7i1.952>.

<sup>16</sup> Undang-Undang Nomor 1 Tahun 2026 tentang Penyesuaian Pidana.

<sup>17</sup> Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana: Perkembangan Penyusunan Konsep KUHP Baru* (Jakarta: Kencana, 2017).

A gap thus remains between national criminal-law reform and narcotics law. The National Criminal Code and the Adjustment Law promote proportionality, harmonization, and legal certainty, while the Narcotics Law retains a dual character. It recognizes rehabilitation normatively but leaves imprisonment readily available in practice. Narcotics criminal law consequently remains ambiguous: it seeks recovery yet still resorts easily to incarceration.

The consequences of this ambiguity can be seen in prison and detention-center overcrowding. Ministry of Immigration and Corrections data from April 2026 recorded 271,468 occupants, comprising 215,156 convicted prisoners and 56,312 detainees, while ideal capacity was only 146,860. Overcapacity therefore remained about 85 percent, demonstrating the exceptionally heavy burden on the correctional system.<sup>18</sup>

This condition is directly relevant to narcotics penal policy. Continuing to send users who need rehabilitation to prison makes correctional congestion harder to reduce. Incarceration restricts liberty but does not automatically resolve dependence, which is connected to medical and psychological conditions, family and social environments, and access to recovery services. Without addressing those causes, imprisonment is only a temporary response, and a user released without adequate recovery remains at risk of relapse.<sup>19</sup>

The correctional burden is also visible in 2021 data from the Directorate General of Corrections: 139,088 of 255,435 incarcerated persons were held in narcotics cases. Not all were users; the figure also included dealers, couriers, and organizers. Nevertheless, it shows the direct relationship between narcotics penal policy and correctional overcrowding. Unless users are clearly separated from illicit traffickers, prisons will continue to hold people whose needs would be addressed more appropriately through rehabilitation.<sup>20</sup>

Institutionally, the state has begun to move in a rehabilitative direction, notably through Attorney General Guideline Number 18 of 2021 on resolving narcotics-abuse cases through rehabilitation and restorative justice as an exercise of prosecutorial dominus litis. It recognizes that narcotics users need not always be prosecuted through to imprisonment. Its weakness is its sectoral status: it binds prosecutors but is not a statutory rule governing the entire criminal process from investigation to execution of judgment.<sup>21</sup>

This limitation matters because a criminal case does not begin with the prosecution service. It begins with investigation, then moves through prosecution, trial, and execution. If rehabilitation becomes robust only at the prosecution stage, a user may already have entered a lengthy criminal process and the direction of the case may have been set during the investigation. Rehabilitation therefore cannot remain an internal policy of one institution; it must become a system binding the

---

<sup>18</sup> Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika, Pasal 54 dan Pasal 127.

<sup>19</sup> Kementerian Imigrasi dan Pemasarakatan Republik Indonesia, "Overkapasitas Lapas Menurun, Menteri Imipas Pertegas Komitmen Berantas Narkoba," April 10, 2026.

<sup>20</sup> Siti Saraya, "Rehabilitasi Penyalahguna Narkotika dengan Double Track System," *AIJ: Law and Justice Journal* 4, no. 2 (2023).

<sup>21</sup> Direktorat Jenderal Pemasarakatan, "Mengurai Permasalahan Overcrowded di Lapas/Rutan," Direktorat Jenderal Pemasarakatan, 2021, <https://www.ditjenpas.go.id/mengurai-permasalahan-overcrowded-di-lapasrutan>.

police, prosecutors, judges, the National Narcotics Board, rehabilitation facilities, and correctional authorities.<sup>22</sup>

The problem is not insufficient state firmness. The state must remain firm against organizers, dealers, and narcotics networks. The problem is misdirected intervention. Treating a user who needs recovery in the same manner as an illicit trafficker makes criminal law overbroad and disproportionate. The state may appear severe without being just, and may punish without solving the underlying problem.<sup>23</sup>

Narcotics sentencing policy should therefore be reconsidered after the National Criminal Code and the Adjustment Law. Reform should extend beyond modifying penalties to the way the state selects its response. Prison is not always appropriate for a narcotics user. When an assessment establishes personal use, dependence, or victim status without involvement in illicit trafficking, rehabilitation should be the primary path. This is where integrated-assessment-based rehabilitative diversion becomes particularly relevant.<sup>24</sup>

### **Integrated-Assessment-Based Rehabilitative Diversion as a Redesigned Sentencing Model**

The sentencing of narcotics users should be redesigned around a model that not only punishes but also restores. Integrated-assessment-based rehabilitative diversion transfers a user's case from an imprisonment track to medical and social rehabilitation. It does not imply leniency toward narcotics. The state remains firm against organizers, dealers, and illicit networks, but applies a different approach to a person shown to use narcotics personally without involvement in trafficking.<sup>25</sup>

Rehabilitative diversion is important because imprisonment alone is often inadequate to address narcotics use. Abuse may be connected to dependence, psychological distress, the social environment, and failures of access to health care. Prison merely moves these problems from the community into a correctional institution and does not guarantee recovery after release. Rehabilitation should therefore be understood as a recovery-oriented component of sentencing policy, not merely as legal leniency.<sup>26</sup>

To prevent misuse, rehabilitative diversion must be based on an integrated assessment that serves as an initial filter for determining legal status and individual condition. It distinguishes a personal user, a person with dependence, a victim of

---

<sup>22</sup> Kejaksaan Agung Republik Indonesia, Pedoman Jaksa Agung Nomor 18 Tahun 2021 tentang Penyelesaian Penanganan Perkara Tindak Pidana Penyalahtunaan Narkotika Melalui Rehabilitasi dengan Pendekatan Keadilan Restoratif sebagai Pelaksanaan Asas Dominus Litis Jaksa (Jakarta: Kejaksaan Agung Republik Indonesia, 2021).

<sup>23</sup> Fransilirus Nong Richi, "Implementasi Sistem Pemidanaan Dua Jalur (Double Track System) bagi Pelaku Penyalahtunaan Narkotika," *The Juris* 7, no. 1 (2023): 267–77, <https://doi.org/10.56301/juris.v7i1.952>.

<sup>24</sup> Muladi and Barda Nawawi Arief, *Teori-Teori dan Kebijakan Pidana* (Bandung: Alumni, 2010).

<sup>25</sup> Sitta Saraya and Yusrina Handayani, "Rehabilitasi Penyalahtunaan Narkotika dengan Double Track System dalam Pemidanaan di Indonesia," *ADIL Indonesia Journal* 4, no. 2 (2023): 68–81, <https://doi.org/10.35473/aij.v4i2.2418>.

<sup>26</sup> Muhamad Chaidar and Budiarsih Budiarsih, "Implementation Double-Track System Criminal Sanctions and Rehabilitation Against Narcotic Abusers," *SASI* 28, no. 3 (2022): 407–17, <https://doi.org/10.47268/sasi.v28i3.974>.



abuse, a courier, and a participant in illicit trafficking. Accurate categorization is essential because an error will lead to an inappropriate form of responsibility. Scholarship also views integrated assessment as a way to improve narcotics-law enforcement by directing users and persons with dependence toward rehabilitation and reducing narcotics demand.<sup>27</sup>

Institutionally, the assessment should not be conducted by a single body. The team should combine law-enforcement and recovery perspectives. Investigators, prosecutors, and the National Narcotics Board can represent law enforcement, while physicians, psychologists, social workers, and correctional personnel can address recovery. The resulting evaluation incorporates criminal, medical, psychological, and social dimensions. Research on integrated-assessment teams likewise indicates that their recommendations can assist investigators in deciding whether a case is suitable for restorative justice and rehabilitation.<sup>28</sup>

The mechanism should begin at the investigation stage. When a person is arrested for narcotics use, the investigator should be required to request an integrated assessment within a specified period so that rehabilitation does not become an option only after the case has progressed. Eligibility should include personal use, no participation in trafficking, evidence within a personal-use threshold, and indications of dependence or a need for recovery. Assessment must function as a genuine gateway separating users from illicit traffickers, not as an administrative formality.<sup>29</sup>

If the assessment finds the person eligible, the case may be transferred to rehabilitative diversion. Transfer does not extinguish responsibility. The participant must complete a recovery program, attend counseling, undergo health tests, submit periodic reports, and take part in social evaluation. Failure to comply, or renewed involvement in illicit trafficking, may return the case to criminal proceedings.<sup>30</sup>

This model is more balanced than ordinary imprisonment. The state retains supervision of the user while creating an opportunity for recovery suited to the underlying problem. Rehabilitation thereby becomes a form of improvement-oriented legal responsibility rather than an act of compassion.

The redesign must also be linked to Article 127 of the Narcotics Law. Article 127 should no longer operate as the principal gateway to imprison users; it should be reconstructed to require rehabilitative diversion for eligible persons. A personal user whom an integrated assessment categorizes as a person with dependence or a victim of abuse should undergo medical and social rehabilitation rather than imprisonment. Imprisonment can remain available where the person is involved in illicit trafficking or deliberately abuses the rehabilitation mechanism. This would

---

<sup>27</sup> Nurul Huda et al., "Asesmen Terpadu: Penerapan Restorative Justice Penanggulangan Kejahatan Narkotika di Indonesia," *Jurnal Ilmiah Kebijakan Hukum* 14, no. 1 (2020): 111–24, <https://doi.org/10.30641/kebijakan.2020.V14.111-124>.

<sup>28</sup> Nazwa Sahila Fitri, "Peranan Tim Asesmen Terpadu dalam Upaya Restorative Justice pada Tindak Pidana Narkotika di Badan Narkotika Nasional Kabupaten Garut," *Community: Jurnal Pengabdian Pada Masyarakat* 5, no. 1 (2025): 42–49, <https://doi.org/10.51903/tcqxth05>.

<sup>29</sup> Huda et al., "Asesmen Terpadu," 111–24.

<sup>30</sup> Ari Hastuti, Joko Sriwidodo, and Basuki Basuki, "Penerapan Peraturan Kejaksaan Nomor 18 Tahun 2021 terkait Rehabilitasi Narkotika Berdasarkan Keadilan Restoratif," *SINERGI: Jurnal Riset Ilmiah* 1, no. 3 (2024): 124–32, <https://doi.org/10.62335/4je9ak19>.

redirect rather than simply repeal Article 127 and align it with proportional sentencing.<sup>31</sup>

The model is also consistent with the National Criminal Code and the Adjustment Law's objective of a more rational sentencing system. Criminal-law reform cannot be limited to rearranging penalties; it must ensure that the selected sanction corresponds to the character of the conduct and the condition of the person. For narcotics users, rehabilitation based on integrated assessment is more appropriate than a general term of imprisonment.

Several concrete measures are required. First, Article 127 should be revised to include mandatory rehabilitative diversion for eligible users. Second, integrated assessment should be mandatory from the investigation stage rather than dependent on official discretion. Third, national assessment standards should bind investigators, prosecutors, judges, the National Narcotics Board, and rehabilitation institutions. Fourth, rehabilitation should be supervised through periodic reports, health tests, counseling, and social evaluation. Fifth, an integrated database should enable monitoring and deter misuse.

Under this model, sentencing pursues not only retribution but also recovery and prevention of reoffending. A recovered user has a greater prospect of reintegration than one imprisoned without treatment. The state can simultaneously reduce pressure on correctional institutions and reserve imprisonment for genuinely dangerous actors, including organizers, dealers, and organized narcotics networks.

Integrated-assessment-based rehabilitative diversion can therefore provide a middle path for Indonesian narcotics policy. It does not remove state firmness, but corrects the way the state treats users. Firmness must be accurately directed: a user who needs recovery should not be treated as equivalent to an illicit trafficker. Sentencing should be redesigned so that criminal law can restore in a just and humane manner as well as punish.<sup>32</sup>

### **Comparative and Doctrinal Calibration**

International evidence does not justify an automatic assumption that every narcotics defendant should receive treatment. It supports a more precise proposition: for appropriately screened drug-involved offenders, treatment-oriented alternatives can reduce reliance on incarceration and may improve recidivism outcomes, but effectiveness depends on eligibility criteria, program quality, completion, aftercare, and judicial or administrative supervision.

Accordingly, integrated assessment should function as a multidisciplinary gateway. It should classify the person's role in the narcotics event, identify dependence and recovery needs, test for trafficking indicators, and generate a reasoned recommendation at an early procedural stage. Legal safeguards are equally important: written reasons, reviewability, standardized thresholds, conflict-of-interest controls, and consequences for non-compliance are necessary to prevent diversion from becoming either arbitrary leniency or a purely formal exercise.

---

<sup>31</sup> Hastuti, Sriwidodo, and Basuki, "Penerapan Peraturan Kejaksaan Nomor 18 Tahun 2021," 124–32.

<sup>32</sup> Wenda Ulfa, "Dekriminalisasi terhadap Pasal 127 Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika," *Rio Law Jurnal* 1, no. 1 (2020): 1–11.

**Table 1. Eligibility and Safeguards for Integrated-Assessment-Based Rehabilitative Diversion**

| <b>Dimension</b>                 | <b>Diversion indicator</b>                                     | <b>Safeguard</b>                                                          |
|----------------------------------|----------------------------------------------------------------|---------------------------------------------------------------------------|
| <b>Role in offence</b>           | Personal use; no material participation in trafficking         | Independent verification of trafficking indicators                        |
| <b>Clinical/social condition</b> | Dependence, harmful use, or demonstrated recovery need         | Multidisciplinary medical, psychological, and social assessment           |
| <b>Timing</b>                    | Assessment initiated at investigation stage                    | Statutory or regulatory deadline                                          |
| <b>Decision</b>                  | Reasoned recommendation and prosecutorial/judicial disposition | Written reasons and reviewability                                         |
| <b>Implementation</b>            | Medical/social rehabilitation with periodic reporting          | Compliance monitoring, aftercare, and return mechanism for serious breach |

Table 1 separates substantive eligibility from procedural safeguards. This is important because a rehabilitation model can be both under-inclusive and vulnerable to manipulation unless the legal classification of the offender is supported by multidisciplinary evidence and reviewable reasons.

## CONCLUSION

The present framework contains a structural tension: rehabilitation is mandated for persons with dependence and victims of abuse, while personal use can still lead to imprisonment under Article 127. The post-reform criminal-law framework has not eliminated that tension through a mandatory early diversion mechanism. A more proportionate model is integrated-assessment-based rehabilitative diversion for persons whose conduct is limited to personal use and whose assessment demonstrates dependence or a recovery need without meaningful involvement in illicit trafficking. The mechanism should begin at investigation, use nationally standardized multidisciplinary criteria, provide written and reviewable reasons, require monitored medical and social rehabilitation, and preserve firm prosecution for organizers, dealers, and active couriers. This redesign targets punishment more accurately while treating rehabilitation as a legally structured form of responsibility rather than discretionary leniency.

Limitation and future research: because this article is normative, claims about implementation, prevalence, user behavior, institutional performance, or causal effectiveness require separate empirical study. Future research should test the proposed framework through systematic case-law coding, institutional data, stakeholder interviews, or comparative regulatory evaluation.

Integrated-assessment-based rehabilitative diversion offers a model for redesign. It does not weaken narcotics enforcement; it makes criminal law more accurately targeted. Organizers, dealers, active couriers, and illicit networks should remain subject to firm action. A person shown to use narcotics personally, to have no involvement in illicit trafficking, and to need recovery according to an assessment should instead enter medical and social rehabilitation. Rehabilitation would thus become a measurable legal mechanism from the beginning of criminal proceedings rather than a matter wholly dependent on official discretion.

The redesign requires revision of Article 127, integrated assessment from the investigation stage, national assessment standards, and rehabilitation supervision through periodic reporting, counseling, health testing, social evaluation, and an integrated database. This model would move narcotics criminal law in a more just, humane, and rational direction. The state would remain firm toward narcotics crime without treating users who need recovery in the same manner as illicit traffickers.

## REFERENCES

- Andrews, D. A., Ivan Zinger, Robert D. Hoge, James Bonta, Paul Gendreau, and Francis T. Cullen. "Does Correctional Treatment Work? A Clinically Relevant and Psychologically Informed Meta-Analysis." *Criminology* 28 (1990): 369–404. <https://doi.org/10.1111/j.1745-9125.1990.tb01330.x>.
- Chaidar, Muhamad, and Budiarsih Budiarsih. "Implementation Double-Track System Criminal Sanctions and Rehabilitation Against Narcotic Abusers." *SASI* 28, no. 3 (2022): 407-17. <https://doi.org/10.47268/sasi.v28i3.974>.
- David B. Wilson, Ojmarrh Mitchell, and Doris L. MacKenzie. "A Systematic Review of Drug Court Effects on Recidivism." *Journal of Experimental Criminology* 2, no. 4 (2006): 459–487. <https://doi.org/10.1007/s11292-006-9019-4>.
- Deborah Koetzle Shaffer. "Looking Inside the Black Box of Drug Courts: A Meta-Analytic Review." *Justice Quarterly* 28, no. 3 (2011): 493–521. <https://doi.org/10.1080/07418825.2010.525222>.
- Dynia, Paul, and Hung-En Sung. "The Safety and Effectiveness of Diverting Felony Drug Offenders to Residential Treatment as Measured by Recidivism." *Criminal Justice Policy Review* 11, no. 4 (2000). <https://doi.org/10.1177/0887403400011004002>.
- Fitri, Nazwa Sahila. "Peranan Tim Asesmen Terpadu dalam Upaya Restorative Justice pada Tindak Pidana Narkotika di Badan Narkotika Nasional Kabupaten Garut." *Community: Jurnal Pengabdian Pada Masyarakat* 5, no. 1 (2025): 42-49. <https://doi.org/10.51903/tcqthx05>.
- Gideon, Lior, and Hung-En Sung, eds. *Rethinking Corrections: Rehabilitation, Reentry, and Reintegration*. Thousand Oaks, CA: Sage, 2011. <https://doi.org/10.4135/9781452230474>.
- Hastuti, Ari, Joko Sriwidodo, and Basuki Basuki. "Penerapan Peraturan Kejaksaan Nomor 18 Tahun 2021 terkait Rehabilitasi Narkotika Berdasarkan Keadilan Restoratif." *SINERGI: Jurnal Riset Ilmiah* 1, no. 3 (2024): 124-32. <https://doi.org/10.62335/4je9ak19>.
- Huda, Nurul, et al. "Asesmen Terpadu: Penerapan Restorative Justice Penanggulangan Kejahatan Narkotika di Indonesia." *Jurnal Ilmiah Kebijakan Hukum* 14, no. 1 (2020): 111-24. <https://doi.org/10.30641/kebijakan.2020.V14.111-124>.
- Hughes, Caitlin, and Alison Ritter. "A Summary of Diversion Programs for Drug and Drug-Related Offenders in Australia." *UNSW* (2024). <https://doi.org/10.26190/unsworks/26824>.

- Kelly, Christopher E., Wayne N. Welsh, and Jennifer N. Stanley. "The Treatment Group and Recidivism: A Multilevel Analysis of Prison-Based Substance Abuse Treatment." *The Prison Journal* 99, no. 5 (2019): 515–534. <https://doi.org/10.1177/0032885519875002>.
- Lipsey, Mark W., and Francis T. Cullen. "The Effectiveness of Correctional Rehabilitation: A Review of Systematic Reviews." *Annual Review of Law and Social Science* 3 (2007): 297–320. <https://doi.org/10.1146/annurev.lawsocsci.3.081806.112833>.
- Mitchell, Ojmarrh, David B. Wilson, Amy Eggers, and Doris L. MacKenzie. "Assessing the Effectiveness of Drug Courts on Recidivism: A Meta-Analytic Review of Traditional and Non-Traditional Drug Courts." *Journal of Criminal Justice* 40, no. 1 (2012): 60–71. <https://doi.org/10.1016/j.jcrimjus.2011.11.009>.
- Mitchell, Ojmarrh, David B. Wilson, and Doris L. MacKenzie. "Drug Courts' Effects on Criminal Offending for Juveniles and Adults." *Campbell Systematic Reviews* (2012). <https://doi.org/10.4073/csr.2012.4>.
- Mitchell, Ojmarrh, David B. Wilson, and Doris L. MacKenzie. "The Effectiveness of Incarceration-Based Drug Treatment on Criminal Behavior." *Campbell Systematic Reviews* (2006). <https://doi.org/10.4073/csr.2006.11>.
- Mitchell, Ojmarrh, David B. Wilson, and Doris L. MacKenzie. "The Effectiveness of Incarceration-Based Drug Treatment on Criminal Behavior." *Campbell Systematic Reviews* (2012). <https://doi.org/10.4073/csr.2012.18>.
- Richi, Fransilirus Nong. "Implementasi Sistem Pemidanaan Dua Jalur (Double Track System) bagi Pelaku Penyalahgunaan Narkotika." *The Juris* 7, no. 1 (2023): 267–77. <https://doi.org/10.56301/juris.v7i1.952>.
- Saraya, Sitta, and Yusrina Handayani. "Rehabilitasi Penyalahgunaan Narkotika dengan Double Track System dalam Pemidanaan di Indonesia." *ADIL Indonesia Journal* 4, no. 2 (2023): 68–81. <https://doi.org/10.35473/aij.v4i2.2418>.
- Stein, David M., Kendra J. Homan, and Scott DeBerard. "The Effectiveness of Juvenile Treatment Drug Courts: A Meta-Analytic Review of Literature." *Journal of Child & Adolescent Substance Abuse* 24, no. 2 (2015): 80–93. <https://doi.org/10.1080/1067828X.2013.764371>.
- Stein, David M., Scott DeBerard, and Kendra Homan. "Predicting Success and Failure in Juvenile Drug Treatment Court: A Meta-Analytic Review." *Journal of Substance Abuse Treatment* 44, no. 2 (2013): 159–168. <https://doi.org/10.1016/j.jsat.2012.07.002>.
- Suvi M. Virtanen, Mikko Aaltonen, Antti Latvala, Mats Forsman, Paul Lichtenstein, and Zheng Chang. "Effectiveness of Substance Use Disorder Treatment as an Alternative to Imprisonment." *BMC Psychiatry* 24 (2024). <https://doi.org/10.1186/s12888-024-05734-y>.
- Warner, Tara D., and John H. Kramer. "Closing the Revolving Door? Substance Abuse Treatment as an Alternative to Traditional Sentencing for Drug-Dependent Offenders." *Criminal Justice and Behavior* 36, no. 1 (2009). <https://doi.org/10.1177/0093854808326743>.



Wexler, Harry K., Gerald Melnick, and Yan Cao. "Risk and Prison Substance Abuse Treatment Outcomes: A Replication and Challenge." *The Prison Journal* 84, no. 1 (2004). <https://doi.org/10.1177/0032885503262458>.

Wolff, Kevin T., Laura Baber, Christine A. Dozier, Roberto Cordeiro, and Jonathan Muller. "Recidivism in Alternatives to Incarceration Programs across Thirteen Federal Districts." *Federal Sentencing Reporter* 36, no. 3 (2024): 141–. <https://doi.org/10.1525/fsr.2024.36.3.141>.

Zarkin, Gary A., Alexander J. Cowell, Katherine Hicks, Michael Mills, Steven Belenko, Laura J. Dunlap, and Vincent Keyes. "Lifetime Benefits and Costs of Diverting Substance-Abusing Offenders from State Prison." *Crime & Delinquency* (2015). <https://doi.org/10.1177/0011128712461904>.

### **Primary Legal Materials**

Indonesia. Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika.

Indonesia. Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana.

Indonesia. Undang-Undang Nomor 1 Tahun 2026 tentang Penyesuaian Pidana.

Ulfa, Wenda. "Dekriminalisasi terhadap Pasal 127 Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika." *Rio Law Jurnal* 1, no. 1 (2020): 1-11.