



The Concept of Rehabilitation Law for Military Personnel Who Commit Narcotics Crimes in the Perspective of Legal Certainty

Abdul Salam

Universitas Pamulang,
Indonesia

***Corresponding author:**

Abdul Salam, Universitas Pamulang,
Indonesia.

✉ salam.bugis1@gmail.com mail

Article Info :

Received: January 13, 2025

Revised: February 18, 2025

Accepted: April 20, 2025

Keywords:

rehabilitation; narcotics abuse;
indonesian national armed forces
(TNI); military law; human rights

Abstract

Background: Narcotics abuse among Indonesian National Armed Forces (TNI) members raises legal and human rights concerns. Although Law No. 35 of 2009 recognizes rehabilitation as a right for narcotics addicts, in practice TNI personnel are often directly subjected to dismissal without rehabilitation, creating legal injustice and human rights issues

Objective: This study aims to analyze the regulatory framework, implementation, and ideal concept of rehabilitation for TNI members involved in narcotics crimes from legal, criminological, rehabilitation, and human rights perspectives

Methods: This research employs a normative juridical method with a qualitative approach by examining laws, military regulations, and legal doctrines relevant to rehabilitation and military discipline

Results: The findings show that rehabilitation for TNI members is not optimally implemented due to disharmony between civil and military law, the absence of special rehabilitation facilities for soldiers, and weak internal TNI regulations. As a result, punitive measures are often prioritized over rehabilitative efforts, despite rehabilitation's purpose of restoring health, rights, and dignity

Conclusion: The study concludes that effective rehabilitation for TNI personnel requires harmonization of civil and military legal frameworks, the establishment of specialized military rehabilitation centers, and stronger internal regulations. A holistic, rights-based rehabilitation approach is essential to address narcotics abuse fairly while maintaining discipline and strengthening the integrity of the TNI.

To cite this article: Salam, A. (2025). The Concept of Rehabilitation Law for Military Personnel Who Commit Narcotics Crimes in the Perspective of Legal Certainty. *Journal of Law and Social Politics*, 3(1), 1-14.
<https://doi.org/10.59261/jlsp.v3i1.50>

INTRODUCTION

Research on the provision of rehabilitation for TNI members who abuse narcotics requires a theoretical framework that includes basic concepts of law, criminalization, rehabilitation, and human rights. Theoretically, Rehabilitation, in the context of narcotics abuse, refers to the process of physical, mental, and social recovery for individuals who experience narcotic dependence or abuse. Rehabilitation aims to restore the individual's function to society productively, helping them to eliminate their dependence on narcotics, as well as restoring their physical and mental health (Delmiati & Irsal, 2023; HOUNGBEDJI et al., 2025; Liana & Windarwati, 2021; Qutishat, 2025).

Based on Law Number 35 of 2009 concerning Narcotics, rehabilitation can be divided into two types, namely: 1) Medical rehabilitation, which focuses on the physical and mental recovery of victims of narcotics abuse through treatment and therapy. 2) Social rehabilitation, which aims to restore the role of individuals in society by overcoming the social impact caused by narcotics

abuse (Shcherbyna et al., 2025). Basically, rehabilitation is seen as an alternative sanction to criminal punishment, especially for those who are considered victims of narcotics abuse, who are not solely punished, but are given the opportunity to recover and function normally in society (Widiyasyam et al., 2020). Meanwhile, the TNI is a state military institution that has a major role in maintaining state sovereignty and maintaining national security. As part of the state apparatus, TNI members have an obligation to comply with high discipline and ethics (Setyadi & Sukardi, 2023)

Strict discipline in the TNI sometimes poses a challenge when TNI members are involved in narcotics abuse, because this not only violates the general law but also violates military discipline regulated in the Military Criminal Code (KUHPM). However, although TNI members can be subject to disciplinary sanctions for these violations, they also have the right to rehabilitation, especially if they are considered victims of narcotics abuse (Setyadi & Sukardi, 2023). Based on Law Number 35 of 2009, TNI members who are involved in narcotics abuse must be treated according to the principles of rehabilitation, both medical and social, even though they are bound by military law. This raises the need for harmonization between military law and the principle of human rights (HAM) which recognizes rehabilitation as a right for individuals caught up in narcotics abuse. This framework explains the philosophical, juridical, and sociological basis for law enforcement against military members involved in narcotics abuse.

The philosophical basis is related to the concept of justice and the purpose of law. The philosophy of justice according to Aristotle, which states that "justice is to give everyone what is his right", is an important basis in discussing the rights of TNI members involved in narcotics abuse. In this context, rehabilitation is not only considered as an alternative punishment, but as a right that every individual has to be rehabilitated, especially TNI members who experience drug dependence as a result of various external and internal factors. Legal certainty is one of the basic principles in law that guarantees that every legal action can be predicted and carried out based on clear and consistent norms (Carlsson, 2025; Pino, 2023;).

Legal certainty provides a basis for upholding fair and equal justice for all parties involved, including TNI members involved in narcotics abuse. The juridical basis in this framework refers to the laws and regulations that regulate narcotics and criminalization for narcotics abusers, especially in the military environment (Sarumpaet, 2025). Law Number 35 of 2009 concerning Narcotics is a legal umbrella that states that narcotics abusers, referred to as victims, are entitled to medical and social rehabilitation. This is stated in Article 54 and Article 103 which provide a legal basis for the provision of rehabilitation to narcotics addicts as a form of recovery, while the sociological basis examines the social impact of narcotics abuse, as well as rehabilitation approaches that can encourage the social reintegration of TNI members into community life.

Drug abuse in military settings is influenced by complex social and psychological factors, including high operational pressure, mental stress, personal problems, and limited social support within the military environment. These conditions make a holistic rehabilitation-based approach, encompassing physical, psychological, and social recovery, highly relevant in addressing narcotics abuse among members of the Indonesian National Armed Forces (TNI). Rehabilitation not only benefits the individual soldier but also strengthens institutional integrity by reducing stigma and enabling rehabilitated personnel to return to productive military and social roles (Rishmawi, 2019)

Environmental factors such as family instability, social conflict, and declining self-confidence further reinforce the need for rehabilitation approaches that go beyond medical treatment and include psychosocial reintegration. However, a regulatory tension exists between Law No. 35 of 2009 on Narcotics, which recognizes addicts as victims entitled to rehabilitation, and Law No. 34 of 2004 on the TNI, which prioritizes discipline and imposes dismissal as a dominant sanction. This normative conflict is reinforced by Minister of Defense Regulation No. 18 of 2019, which emphasizes prevention and eradication but provides limited space for rehabilitation within the military justice system.

From a justice perspective, Aristotle's concept of justice—*giving each person their due*—supports the view that TNI members who are narcotics victims retain the right to health recovery without negating legal responsibility. Rehabilitation reflects corrective justice, aligning with modern criminal law theories that emphasize offender reintegration and social protection. Articles

54 and 103 of Law No. 35 of 2009 explicitly mandate medical and social rehabilitation and grant judges authority to order rehabilitation as part of criminal verdicts (Hamja, 2025).

As *lex specialis*, military law should not negate fundamental human rights, particularly the right to health and non-discrimination. Legal harmonization can be achieved through aligning narcotics law with military criminal law, establishing specialized rehabilitation facilities for TNI personnel, and strengthening internal regulations that integrate rehabilitation without undermining discipline. Clear procedures and judicial discretion grounded in Article 103 are essential to ensuring legal certainty, fairness, and effective rehabilitation within the military justice system (Ashworth, 2020).

Previous studies on narcotics abuse within the military have largely emphasized disciplinary enforcement and zero-tolerance policies as essential mechanisms for maintaining military readiness and institutional authority. Research by UNODC (2021) and BNN (2023) highlights that narcotics abuse among security personnel is commonly addressed through punitive sanctions, including dismissal and imprisonment, with limited attention to rehabilitation as a rights-based intervention. Other studies in military criminology focus on the psychological causes of substance abuse such as operational stress, trauma, and social isolation—but tend to treat rehabilitation as a secondary or complementary measure rather than a core legal right.

In the Indonesian context, existing legal research predominantly examines the strict application of military law and internal regulations of the TNI, particularly Law No. 34 of 2004 and Minister of Defense Regulation No. 18 of 2019. These studies generally conclude that dismissal sanctions are justified to preserve discipline and public trust, yet they rarely analyze the normative conflict between military discipline and the rehabilitation mandate under Law No. 35 of 2009 on Narcotics. As a result, the legal position of TNI members as *victims of narcotics abuse*—as recognized in national narcotics policy remains underexplored, especially within military court decisions.

This study fills that gap by offering a normative juridical analysis that integrates criminal law, military law, and human rights principles to assess rehabilitation for TNI members involved in narcotics abuse. The novelty of this research lies in its formulation of an ideal rehabilitation model within the military justice system, emphasizing legal harmonization, judicial discretion under Article 103 of the Narcotics Law, and the protection of soldiers' right to health without undermining military discipline. By positioning rehabilitation as a form of corrective justice rather than leniency, this study contributes a new legal perspective that supports both institutional integrity and human rights compliance within the TNI.

The formulation of this study is: how to regulate rehabilitation laws for TNI soldiers who commit narcotics crimes in accordance with the principle of legal certainty; What are the obstacles that arise in the implementation of rehabilitation for military soldiers involved in narcotics crimes; How to formulate the ideal rehabilitation concept that can be applied effectively within the scope of military law and reflect legal certainty. This study aims to review the various mechanisms of the rehabilitation system implemented among the military, as well as identify patterns of rehabilitation application in court decisions. The results of this study are expected to provide recommendations to formulate more effective and sustainable rehabilitation policies in the future.

METHOD

This study uses a normative juridical method, namely legal research that focuses on the study of laws and regulations, legal doctrines, and human rights principles that are relevant to rehabilitation for TNI members involved in narcotics abuse. The approaches used include: 1) Statute Approach: Examines the legal rules that govern the rehabilitation of narcotics addicts and the legal rules that apply in the TNI environment. 2) Conceptual Approach: Exploring the basic concept of rehabilitation as a human right and how this is implemented in the context of military law.

This research employs a normative juridical method, which is primarily focused on the study of legal norms, statutory regulations, and legal doctrines related to the rehabilitation of military personnel involved in narcotics abuse. This method is chosen because it allows for an in-depth analysis of existing legal frameworks governing rehabilitation in Indonesia, including Law

No. 35 of 2009 on Narcotics, Law No. 31 of 1997 on Military Courts, and Law No. 34 of 2004 on the Indonesian National Armed Forces (TNI). Furthermore, this study examines the harmonization between civil and military laws, particularly in relation to the principles of legal certainty and human rights. By analyzing primary legal sources and secondary references, this research aims to provide a comprehensive understanding of the gaps and inconsistencies within the existing legal framework.

To complement the normative juridical method, this study adopts a statutory approach, a conceptual approach, and a comparative legal approach. The statutory approach focuses on the examination of legal provisions governing rehabilitation and their application within both civilian and military judicial systems. Meanwhile, the conceptual approach delves into the fundamental principles of rehabilitation as a form of legal protection for individuals categorized as victims of narcotics abuse. The comparative legal approach is employed to assess how other countries implement rehabilitation policies for military personnel involved in narcotics abuse, providing a broader perspective for improving Indonesia's legal framework.

The data collection process in this study is based on document analysis, which involves reviewing legislation, court decisions, military regulations, academic research, and reports from relevant institutions such as the National Narcotics Agency (BNN) and the Ministry of Defense. Legal documents are systematically analyzed to identify patterns in judicial decisions regarding military personnel convicted of narcotics abuse, particularly in military courts. In addition, this study examines legal precedents to determine the extent to which judges have exercised their authority under Article 103 of Law No. 35 of 2009, which allows for rehabilitation as an alternative to imprisonment.

The data obtained from legal documents and academic sources are then subjected to qualitative legal analysis, using deductive and inductive reasoning to construct arguments regarding the necessity of integrating rehabilitation within the military justice system. By comparing the principles of legal certainty, justice, and proportionality, this study seeks to propose a legal reform that ensures fair treatment for TNI personnel while maintaining military discipline. The findings of this research are expected to contribute to the development of military law, particularly in relation to narcotics-related offenses, and to provide policy recommendations that balance legal enforcement with rehabilitative justice.

RESULTS AND DISCUSSION

Result

Legal Disharmony in the Implementation of Rehabilitation for TNI Personnel

Explanation

The first result shows a structural disharmony between civilian narcotics law and military legal regulations in handling rehabilitation for TNI members involved in narcotics abuse. Although Law No. 35 of 2009 explicitly recognizes rehabilitation as a right for narcotics addicts and victims, its implementation in the military justice system remains limited. Military courts and internal regulations tend to prioritize disciplinary sanctions, particularly dismissal, over rehabilitative measures. This condition creates legal uncertainty and unequal treatment between civilians and military personnel.

Table 1. Comparison of Rehabilitation Provisions in Civil and Military Legal Frameworks

Legal Aspect	Civilian Legal System	Military Legal System
Legal Basis	Law No. 35 of 2009 (Arts. 54 & 103)	Law No. 31 of 1997; Law No. 34 of 2004
Status of Addicts	Considered victims	Considered disciplinary offenders
Rehabilitation	Medical & social rehabilitation mandatory	Not explicitly regulated
Judicial Authority	Judges may order rehabilitation	Limited judicial discretion
Sanction Priority	Recovery-oriented	Dismissal-oriented

Table 1 demonstrates that while the civilian justice system adopts a rehabilitative and health-based approach, the military justice system emphasizes discipline and institutional integrity. This divergence leads to inconsistent legal outcomes and undermines the principle of legal certainty, particularly for first-time offenders or soldiers classified as addicts rather than traffickers.

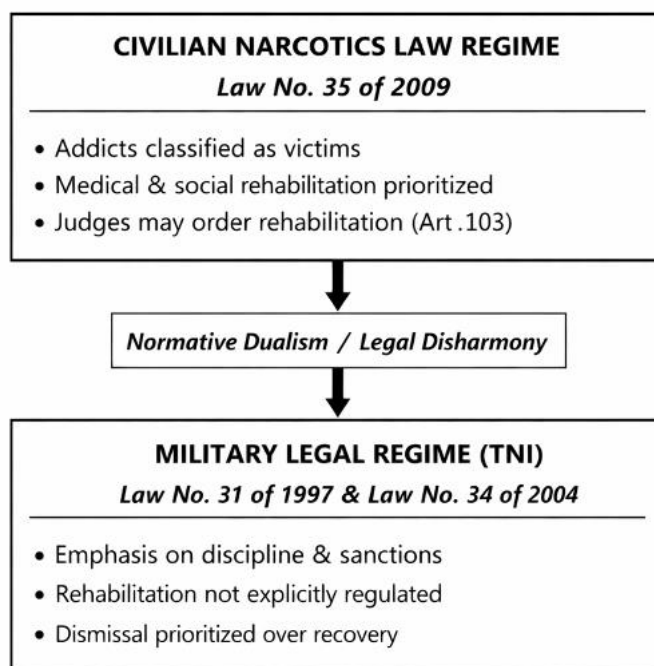


Figure 1. Dualism of Legal Treatment for Narcotics Abusers

Figure 1 illustrates the normative dualism between rehabilitation-oriented civilian law and sanction-oriented military law. The absence of harmonization causes rehabilitation rights to be marginalized within the military legal system, despite clear mandates under national narcotics law.

Absence of Clear Rehabilitation Procedures and Institutional Accountability

The second result indicates that the lack of standardized rehabilitation procedures within the TNI contributes to inconsistent law enforcement and discretionary decision-making. Rehabilitation implementation often depends on command-level policies rather than clear legal mechanisms, resulting in unequal treatment and potential human rights violations.

Table 2. Gaps in Rehabilitation Procedures within the TNI

Procedural Stage	Existing Condition	Identified Gap
Medical Assessment	Conducted inconsistently	No standardized assessment criteria
Psychological Evaluation	Not mandatory	Often omitted
Rehabilitation Type	Undefined	No clear distinction (medical/social)
Post-Rehabilitation Monitoring	Minimal	No evaluation mechanism
Oversight	Internal only	No independent supervision

Table 2 highlights critical procedural gaps that weaken legal certainty. Without standardized procedures, rehabilitation decisions are vulnerable to bias, stigma, and institutional interests, which contradict principles of fairness and non-discrimination.

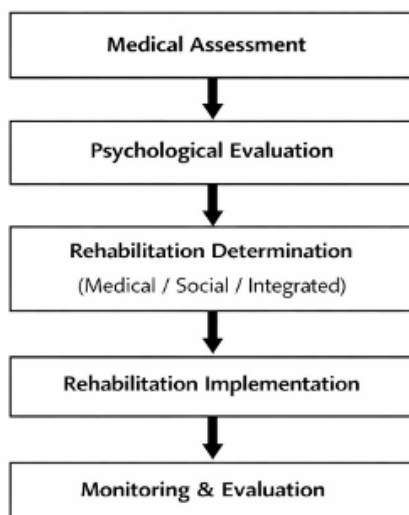


Figure 2. Ideal Rehabilitation Procedure Model for TNI Personnel

Figure 2 presents an ideal rehabilitation flow that integrates legal certainty, medical science, and military discipline. This model ensures transparency, accountability, and proportionality while maintaining the authority of the military institution.

Based on the two main results, this study demonstrates that the core problem in handling narcotics abuse involving TNI personnel lies in the normative dualism between civilian narcotics law and military legal regulations. As illustrated in Figure 1, the absence of legal harmonization results in inconsistent treatment, where rehabilitation—explicitly guaranteed under Law No. 35 of 2009—is often overridden by disciplinary sanctions within the military justice system. This condition creates legal uncertainty and unequal protection of rights for TNI personnel classified as narcotics users or victims.

Furthermore, Figure 2 shows that the lack of standardized rehabilitation procedures within the military environment exacerbates this problem. Without clear stages of assessment, rehabilitation determination, and post-rehabilitation monitoring, the implementation of rehabilitation remains fragmented and highly discretionary. The ideal rehabilitation model proposed in this study provides a structured, transparent, and accountable mechanism that integrates medical, psychological, and legal considerations while maintaining military discipline.

These findings confirm that legal certainty in narcotics rehabilitation for TNI personnel can only be achieved through harmonized legal frameworks and the institutionalization of clear rehabilitation procedures. These results form a critical foundation for further discussion on policy reform and the integration of rehabilitation as a legitimate component of the military justice system.

Discussion

Legal Framework and Contributing Factors in Narcotics Abuse Under Law Number 35 of 2009

The definition of narcotics is regulated in Law Number 35 of 2009 concerning Narcotics, which provides a clear definition and regulation of narcotics and their abuse. Article 1 Paragraph (1) of Law Number 35 of 2009 states that: "Narcotics are substances or drugs derived from plants or non-plants, which can cause a decrease or change in consciousness, loss of taste, and/or cause dependence." Article 54 of Law Number 35 of 2009 also states that: narcotics abuse is the use of narcotics that are not in accordance with legal medical provisions, or the use of narcotics with the aim of obtaining intoxicating effects or damaging health. Narcotics in the medical world are used as pain relievers or anesthetics that can help patients during surgery or in medical treatment. However, the use of narcotics in this context is very limited and must be based on a doctor's prescription, with controlled doses, Narcotics are often used as anesthetics in medical procedures, such as before surgery or to reduce pain. However, in certain situations, narcotics can be abused to obtain intoxicating effects.

Article 54 of Law Number 35 of 2009 concerning Narcotics, narcotics abusers are considered victims if they accidentally fall into the use of narcotics due to persuasion, fraud, coercion, or threats. Sumarno Ma'sum identified three factors that cause narcotics abuse: first, ease of access to narcotics whose legal status is weak, which can lead to dependence and addiction; second, individual personality factors, such as lack of religious education, limited information about hard drugs, instability of physical and mental development, as well as social problems that affect self-confidence and self-identity search; Third, environmental factors, such as unstable household situations, lack of parental attention, unemployment, and weak legal sanctions.

Regulatory factors play a role in narcotics abuse, where uncertainty in regulation and law enforcement can create conflicts of interest in the application of punishment. Developments in jurisprudence and legal science, which try to follow the dynamics of society, also affect existing legislation, although this does not necessarily result in the elimination of narcotics-related crimes, as explained in Article 15 of Law Number 35 of 2009 which states that the use of narcotics without a permit or illegally is a criminal offense, In the context of narcotics rehabilitation for TNI members, The theory of Legal Elements or legal theories regarding the effectiveness of law has an important role.

The Law not only functions as a tool of coercion but also as a means to achieve justice and social good. In this case, narcotics rehabilitation should be seen as part of a criminal that is oriented towards individual improvement. Fakar states that in law enforcement, every action must be based on the principle of justice, which includes procedural justice, substantive justice, and distributive justice. Therefore, in handling TNI members involved in narcotics, not only the aspect of military discipline needs to be considered, but also the right of individuals to get rehabilitation. A rehabilitative approach should be accepted as a more humane alternative to punishment, which is in line with the principle of corrective justice, which is to improve the individual's circumstances without neglecting legal responsibility.

Justice in Legal Perspective: Fakar emphasizes that justice should be the ultimate goal of the legal system. He distinguishes three types of justice that are important in the legal system, namely: 1) Procedural justice: This justice is related to a legal process that is transparent, non-discriminatory, and open to all parties. The legal process should provide an equal opportunity for every individual to be heard and considered. 2) Substantial justice: Justice that focuses more on the material or outcome of a legal decision. Fakar argues that the law must pay attention to the principle of substantial justice, namely providing decisions that favor the righteous, reducing injustice, and supporting the continuation of a just life for individuals. 3) Distributive justice: This justice leads to a fair distribution in society, namely the distribution of rights and obligations in accordance with the needs and contributions of each individual. 4) Corrective Justice: Fakar also developed the idea of corrective justice, which focuses on correcting or correcting errors that occur in a social or legal system. In this context, he suggests that the law should provide opportunities for individuals who commit offenses to improve themselves, not just to be

punished. In this case, rehabilitation can be part of the concept of corrective justice, which provides an opportunity for the perpetrator of the crime to return to society with personal and social improvement.

The theory of justice that emphasizes narcotics rehabilitation as the primary approach for victims of narcotics abuse more than punitive sanctions can be attributed to several philosophers and theories of justice, especially in the perspective of corrective justice and restorative justice. Some of the philosophers who are relevant to this approach include:

John Rawls (Theory of Justice as Social Justice): John Rawls was a political philosopher best known for his theory of justice, known as "the theory of justice as fairness". Although Rawls does not directly address narcotics rehabilitation, the principles contained in Rawls' theory can be applied in the context of rehabilitation. Rawls emphasized the importance of distributive justice, which is a fair distribution of rights and opportunities in society. In the context of narcotics, Rawls argues that individuals trapped in drug dependence should not be treated only as perpetrators of crimes, but rather as victims of unjust social conditions. In this case, rehabilitation is more of a priority than a punishment, as it provides an opportunity for the individual to improve in a more just society.

Herbert L. Packer (Criminal Theory and Rehabilitation), Herbert L. Packer is a wellknown jurist whose theory distinguishes between two main models of criminal justice: the due process justice model and the criminal justice model. In the due process justice model, Packer emphasizes the importance of rehabilitation as the main goal of punishment, where rehabilitation is more focused on efforts to improve the behavior of criminals, including in cases of drug abuse. Packer argues that punishment that focuses too much on punishment or revenge is ineffective in achieving social recovery, whereas rehabilitation gives the offender the opportunity to improve and return to society.

In terms of legal certainty related to rehabilitation for TNI members involved in narcotics abuse, there are several important points that need to be analyzed: 1) Differences in Treatment between General Courts and Military Courts; a) General Court: Based on Article 103 paragraph (1) of Law Number 35 of 2009 concerning Narcotics, rehabilitation is a right for perpetrators of abuse or addicts of narcotics, both in the process of investigation, prosecution, and in court. This shows that the law provides certainty that the addict is considered a victim in need of recovery. b) Military Courts: In the context of the TNI, members who are proven to have used narcotics not only face criminal charges but are also dismissed from the unit. This refers to special rules such as the Regulation of the Minister of Defense of the Republic of Indonesia Number 18 of 2019 which emphasizes that TNI members involved in narcotics must be fired.

Analysis: From the aspect of legal certainty, there is firmness in the rules for TNI members involved in narcotics. However, this approach is more repressive (dismissal) than rehabilitative, so that the opportunity for recovery of TNI members through rehabilitation is limited or even non-existent. Aspects of Legal Certainty and Discrimination, in the context of law, legal certainty means that the law must be applied fairly and consistently to all people indiscriminately. However, for TNI members, the applicable rules eliminate rehabilitation options and focus more on disciplinary sanctions, such as dismissal. This policy can be considered inconsistent with the principle of human rights (HAM), because TNI members who are narcotics addicts are not treated as victims who need rehabilitation, but are only given severe sanctions in the form of dismissal. This creates the impression of discrimination against military members compared to civilians. The link to discrimination emphasizes the aspect of "The Right to Fair and Non-Discriminatory Treatment."

Universal Human Rights Principle: Every individual, including members of the military, has the right to be treated fairly before the law without discrimination. This is stated in Article 7 of the Universal Declaration of Human Rights (DUHAM) and Article 28D paragraph (1) of the 1945 Constitution, which affirms that everyone has the right to equal treatment before the law. **Problems in the TNI Context:** TNI members involved in narcotics abuse are often not treated as victims in need of rehabilitation but are immediately sentenced to dismissal. This is different from civilians, who can apply for rehabilitation according to Article 103 of the Narcotics Law. This difference in treatment can be considered as a form of discrimination, which is contrary to the principle of human rights equality. **Right to Health Rehabilitation:** a) Human Rights Principles:

Drug addicts are generally considered victims in need of rehabilitation. The right to health, including rehabilitation for addicts, is guaranteed in Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which has been ratified by Indonesia through Law No. 11 of 2005. b) Problems in the TNI Context: TNI members who become narcotics addicts are often not given the opportunity to undergo rehabilitation but are immediately fired. This ignores their right to health rehabilitation as victims of narcotics abuse.

The Right to Rehabilitation as an Alternative to Punishment: a) Human Rights Approach in the Narcotics Law: Law No. 35 of 2009 recognizes that narcotics addicts are victims who need rehabilitation, both medical and social, to restore their health and prevent future abusive behavior. b) Problems in the TNI Context: In the military system, narcotics abuse is more often considered a gross disciplinary violation than a health problem. Therefore, TNI members who are directly involved are subject to dismissal sanctions without considering rehabilitation options. This approach can be considered a violation of the human rights principle that prioritizes recovery for narcotics addicts. The Right to Work and Life with Dignity: a) Human Rights Principles: Everyone has the right to work and a dignified life. The dismissal of TNI members due to narcotics abuse without providing opportunities for rehabilitation can be considered a violation of this right. Rehabilitation should be the first step to rehabilitate them so that they can contribute to society again, including in their profession. b) Problems in the TNI Context: Direct dismissal without rehabilitation options cuts off access to TNI members to work and live with dignity. This can worsen their social and economic conditions, as well as increase the risk of marginalization.

Balance between Military Discipline and Human Rights: a) TNI as a Special Institution: Military discipline does require stricter rules to maintain the authority and integrity of the country's defense. However, this approach must not ignore human rights principles, especially for TNI members who are victims of narcotics abuse. b) Solutions that Respect Human Rights: TNI members who are involved for the first time as narcotics addicts can be given rehabilitation as a recovery step. If after rehabilitation they continue to repeat offenses or engage as traffickers, then severe sanctions, including dismissal, may be imposed. Non-Conformity of Regulations: Applicable legal arrangements, including the Narcotics Law and the Criminal Code, have not provided an adequate legal basis for the rehabilitation of military personnel. Barriers to Implementation: The study found that the lack of specialized rehabilitation facilities, social stigma, and low awareness in the military environment are the main factors hindering rehabilitation. Rehabilitation Opportunities: Despite significant challenges, there are opportunities to improve the rehabilitation system through the integration of medical and social rehabilitation programs with the military's internal mechanisms.

Legal arrangements for rehabilitation for TNI soldiers who commit narcotics crimes are regulated within the framework of national laws, namely Law Number 35 of 2009 concerning Narcotics which recognizes the right to rehabilitation for addicts or victims of narcotics abuse, and Law Number 31 of 1997 concerning Military Courts, which regulates the judicial mechanism for military soldiers. The principle of legal certainty is reflected through: 1) The separation of roles between users who are entitled to rehabilitation and dealers who still have to undergo criminal legal proceedings. 2) Strict and rule-based military judicial procedures, which ensure that cases are resolved based on evidence and review, including a medical assessment of the soldier's condition as an addict or victim of abuse. 3) Internal TNI regulations, such as the Circular Letter or Decree of the TNI Commander, which provide technical guidelines regarding the rehabilitation of soldiers while upholding military discipline without neglecting the right to rehabilitation. However, alignment between the civilian and military legal systems is needed to ensure legal certainty that not only punishes but also rehabilitates soldiers.

Ideal Concept for Rehabilitation

The formulation of the ideal rehabilitation concept should reflect the relevant principles of restorative justice, legal certainty, and militaristic approaches. This concept can be formulated through the following steps:

1. Harmonization of civil and military law
Align the Narcotics Law with military justice regulations to ensure rehabilitation can be implemented without conflict of rules. Drafting internal TNI regulations that explicitly regulate the rehabilitation mechanism while still prioritizing military discipline.
2. Establishment of a special rehabilitation center for the military
Establish rehabilitation facilities designed for soldiers with an approach that integrates medical therapy programs, psychological counseling, and military discipline and skills training. The center must be equipped with professionals who understand the physical, psychological, and moral needs of soldiers.
3. Implementation of an integrated evaluation system
Forming an independent team tasked with monitoring, evaluating, and reporting on the implementation of rehabilitation programs, so that transparency and accountability can be maintained.
4. Increased education and awareness
Integrate narcotics hazard education programs into military education curricula to increase soldiers' awareness of the risks of narcotics abuse. Provide training to officers and unit commanders to recognize signs of narcotics abuse in their environment.
5. Policy and budget support
Ensure adequate budget support from the government to finance facilities, experts, and rehabilitation programs. Develop affirmative policies that provide opportunities for rehabilitated soldiers to return to duty after passing evaluations.

This formulation aims not only to provide legal certainty but also to restore soldiers as a strategic asset of the nation, as well as to maintain the image and integrity of the TNI institution. With effective implementation, this rehabilitation concept is expected to be able to become a comprehensive solution in dealing with narcotics problems in the military environment as well as the development of a rehabilitation system that is in accordance with the needs and characteristics of the military, including: 1) Special Facilities: The construction of rehabilitation centers that are managed directly by the military to ensure security and understanding of military culture. 2) Multidisciplinary

Approach: Involves medical, psychological, and legal professionals to provide a holistic approach. 3) Socialization and Education: Training for military leaders to raise awareness of the importance of rehabilitation. The emphasis on the principle of legal certainty in the military environment in the context of the rehabilitation of TNI soldiers involved in narcotics crimes can be explained through several important aspects that the author can describe as follows:

Legal Certainty and Harmonization of Rehabilitation for TNI Personnel in Narcotics Abuse Cases

Legal certainty in the handling of narcotics abuse cases involving members of the Indonesian National Armed Forces (TNI) requires harmonization between military law, general criminal law, and human rights principles. In practice, military justice often emphasizes discipline and punitive sanctions, which may conflict with broader criminal law objectives that prioritize proportionality and legal certainty (Robinson, 2019). This condition creates a normative gap in cases where soldiers involved in narcotics abuse are treated solely as offenders, without adequate consideration of their status as victims of dependency. From the perspective of criminal law policy, punishment should not merely function as retribution but also as a corrective mechanism aimed at social reintegration. Azzahra et al. (2025) argues that punishment must communicate moral responsibility while maintaining the offender's membership within the community. Similarly, Kurniawan et al. (2024) emphasizes that criminal sanctions should respect individual autonomy and human dignity, particularly when dealing with self-harming behavior such as substance abuse. In this context, rehabilitation represents a rational and humane response that aligns punishment with recovery rather than exclusion.

Empirical studies show that narcotics abuse among military personnel is closely linked to structural and psychological factors, including operational stress, exposure to violence, and institutional pressure (Brady et al., 2019). These findings indicate that a purely punitive approach is insufficient and may undermine both individual recovery and institutional effectiveness. Therefore, rehabilitation-oriented responses are essential to address the root causes of substance abuse within the military environment. From a human rights standpoint, military justice systems remain bound by international human rights obligations. The International Committee of the Red Cross (ICRC) (2020) and the United Nations Human Rights Committee (2020) affirm that military discipline must operate within the framework of fundamental rights, including the right to health, dignity, and non-discriminatory treatment. Military law, as *lex specialis*, should not eliminate these rights but instead integrate them into its enforcement mechanisms.

Legal certainty further requires clear, predictable, and consistent legal norms. Kelsen (2018) and Mertokusumo (2019) emphasize that law must function as a coherent normative system, ensuring that legal subjects understand the consequences of their actions. The absence of clear rehabilitation procedures within the military legal framework creates uncertainty and opens space for discretionary and unequal treatment (Boella & van der Torre, 2008; Morales et al., 2018). Harmonization between civilian and military courts, therefore, becomes essential to ensure consistency and fairness in law enforcement. Finally, institutional accountability and legitimacy depend on transparent and procedurally just processes.

Tyler (2017) demonstrates that fair legal procedures enhance compliance and trust in legal institutions. In the military context, balancing discipline with human rights protection strengthens institutional legitimacy rather than weakening it. As Muladi (2020) argue, integrating rehabilitation into military justice reflects a modern criminal justice approach that upholds human rights while maintaining order and authority. Accordingly, harmonizing rehabilitation policies within the military justice system is essential to achieve legal certainty, proportionality, and justice for TNI personnel involved in narcotics abuse.

An Approach that Integrates Military Discipline with Rehabilitation

The military environment often views rehabilitation as a weakness, preferring a hard-discipline approach without considering the recovery aspect of the individual. This study emphasizes the importance of instilling the principle that rehabilitation is not only medical recovery, but also a form of institutional responsibility to return soldiers as a strategic asset. This approach should be implemented without compromising military discipline, for example by integrating rehabilitation programs with discipline training. Criminalization of TNI-AD soldiers involved in narcotics abuse crimes should not only be oriented towards sanctions, but also aim to create constructive behavior changes for convicts. In this case, the provision of rehabilitation as part of law enforcement has an important role to ensure the recovery of soldiers while maintaining the honor of the TNI institution.

Elements of legal certainty related to rehabilitation must be integrated through the revision and harmonization of laws and regulations, such as the Criminal Code and the Narcotics Law, so that rehabilitation can be explicitly used as a legal and binding alternative sanction. With a clear legal basis, rehabilitation can be carried out in a directed, fair, and consistent manner, thus supporting individual recovery without ignoring the principles of military discipline and the interests of state defense. According to the researcher Legal Certainty and Integration of the Military Legal System in Narcotics Rehabilitation is the key in the description above, so Novelty in this study which emphasizes more aspects In practice, military law tends to focus more on sanctions in the form of dismissal than rehabilitation. This research can be novel because it tries to bridge the two, so that in the future it can create a clearer standard for rehabilitation in the military legal system.

The principle of equality in the eyes of the law is a basic principle in law that states that every individual, regardless of social status, position, or other position, must be treated equally before the law. In this context, TNI members who are involved in narcotics abuse must receive the same treatment as other civilians who are victims of narcotics abuse. Although they are part of a highly disciplined military institution, the principle of equality in the eyes of the law requires that they get the same right to rehabilitation, not just criminal punishment or dismissal. The recovery

of TNI members as victims of narcotics abuse reflects corrective justice, which aims to improve the condition of individuals and return them to society. Rehabilitation is not only a treatment for drug dependence, but also an effort to restore the dignity and integrity of the individual in a more productive social life. In this case, the same principle in the eyes of the law supports the right of TNI members to obtain rehabilitation, considering that they are victims, not just perpetrators of criminal acts.

CONCLUSION

This study analyzes the regulation, application, and ideal concept of rehabilitation for TNI soldiers involved in narcotics crimes by highlighting the incompatibility between the Narcotics Rehabilitation Law, the TNI Law, and the principles of Human Rights (HAM). The Narcotics Law emphasizes rehabilitation as a solution for victims of narcotics abuse, while the TNI Law prioritizes discipline with strict sanctions, including dismissal, thus creating an imbalance in the implementation of rehabilitation for TNI members. From a human rights perspective, rehabilitation should be a guaranteed right, but a military approach that prioritizes punishment often ignores this principle.

The difference in approach between the medical model in the Narcotics Law, which views narcotics abuse as a disease that requires recovery, and the criminal law model in the TNI Law, which emphasizes disciplinary punishment, further complicates the implementation of rehabilitation. Other obstacles such as limited rehabilitation facilities in the military environment, stigma against narcotics abusers, and political and social interests also hinder the effective implementation of rehabilitation. As a result, many soldiers are more often dismissed than given the opportunity to undergo rehabilitation.

ACKNOWLEDGEMENT

The author would like to express sincere gratitude to all parties who contributed to the completion of this research. Special appreciation is extended to the academic community of Universitas Pamulang for their intellectual support and academic environment that enabled the development of this study. The author also acknowledges legal scholars, practitioners, and institutions whose publications, legal documents, and reports served as valuable references in analyzing the rehabilitation framework for TNI personnel involved in narcotics abuse. Any remaining limitations or errors in this study are solely the responsibility of the author.

AUTHOR CONTRIBUTION STATEMENT

The author solely contributed to all stages of this research, including conceptualization, legal framework analysis, data collection through document and regulation review, legal interpretation, drafting of the manuscript, revision, and final approval of the article. Specifically, the author designed the research framework by identifying the normative juridical approach as the most appropriate method for examining legal disharmony between civilian narcotics law and military legal regulations. The author independently conducted comprehensive legal document analysis, including statutory provisions, military court decisions, ministerial regulations, and relevant human rights instruments.

The comparative legal analysis between civilian and military rehabilitation frameworks was formulated entirely by the author, drawing upon principles of legal certainty, corrective justice, and proportionality. The author also developed the conceptual models presented in Figures 1 and 2, synthesizing theoretical perspectives from legal philosophy, criminal law policy, and military discipline studies. Throughout the writing process, the author critically evaluated existing literature, identified research gaps, and articulated policy recommendations for legal harmonization and institutional reform. The author confirms full responsibility for the content, methodological rigor, and scholarly integrity of this study, and declares no conflicts of interest that may affect the objectivity of this research.

REFERENCES

- Azzahra, N. A., Ridha, M., Saepudin, Agustian, S. P., & Azzahra, F. (2025). Etika komunikasi sebagai landasan interaksi sosial yang efektif, sopan dan bertanggung jawab. *Jurnal Komunikasi dan Kewirausahaan*, 1(1).
- Ashworth, A. (2020). *Sentencing and criminal justice* (7th ed.). Cambridge University Press.
- Boella, G., & van der Torre, L. (2008). Substantive and procedural norms in normative multiagent systems. *Journal of Applied Logic*, 6(2). <https://doi.org/10.1016/j.jal.2007.06.006>
- Brady, L. L., Credé, M., Harms, P. D., Bachrach, D. G., & Lester, P. B. (2019). Meta-analysis of risk factors for substance abuse in the US military. *Military Psychology*, 31(6), 450–461. <https://doi.org/10.1080/08995605.2019.1657754>
- Carlsson, V. (2025). Legal certainty in automated decision-making in welfare services. *Public Policy and Administration*, 40(2). <https://doi.org/10.1177/09520767231202334>
- Delmiati, S., & Irsal, I. (2023). Implementation of medical rehabilitation and social rehabilitation for addicts and victims of narcotics abuse. *Ekasakti Journal of Law and Justice*, 1(1), 19–26. <https://doi.org/10.60034/ejlv1i1.3>
- Hamja, H. (2025). Community-based correction (CBC): Efforts to achieve a balance between rehabilitation and social justice. *Jurnal Pembangunan Hukum Indonesia*, 7(1), 137–149. <https://doi.org/10.14710/jphi.v7i1.137-149>
- Houngbedji, N., Dalton-Locke, C., Hughes, A., & Killaspy, H. (2025). Mental health rehabilitation models for people with complex psychosis: A systematic review. *BMC Psychiatry*, 25(1). <https://doi.org/10.1186/s12888-025-07174-8>
- Kelsen, H. (2018). *Pure theory of law* (2nd ed.). University of California Press.
- Kurniawan, K. D., Fajrin, Y. A., & Ishwara, A. S. S. (2024). The synergy of customary criminal law and national criminal law: Orientation towards criminal law pluralism. *Pena Justitia: Media Komunikasi dan Kajian Hukum*, 22(3). <https://doi.org/10.31941/pj.v22i3.3358>
- Liana, L., & Windarwati, H. D. (2021). The effectivity role of community mental health worker for rehabilitation of mental health illness: A systematic review. *Clinical Epidemiology and Global Health*, 11. <https://doi.org/10.1016/j.cegh.2021.100709>
- Mertokusumo, S. (2019). *Mengenal hukum: Suatu pengantar*. Cahaya Atma Pustaka.
- Morales, J., Wooldridge, M., Rodríguez-Aguilar, J. A., & López-Sánchez, M. (2018). Off-line synthesis of evolutionarily stable normative systems. *Autonomous Agents and Multi-Agent Systems*, 32(5). <https://doi.org/10.1007/s10458-018-9390-3>
- Muladi. (2020). *Hak asasi manusia dan sistem peradilan pidana*. Alumni. <https://doi.org/10.20318/EUNOMIA.2023.8000>
- Pino, G. (2023). Legal certainty. *Eunomia: Revista en Cultura de la Legalidad*, (25).
- Qutishat, M. (2025). Mental health rehabilitation in Gaza: Addressing the impact of ongoing war conflict on access and challenges: A systematic review. *Disaster Medicine and Public Health Preparedness*, 19. <https://doi.org/10.1017/dmp.2025.34>
- Rishmawi, M. (2019). Protecting the right to life in protracted conflicts: The existence and dignity dimensions of General Comment 36. *International Review of the Red Cross*, 101(912), 1149–1169. <https://doi.org/10.1017/S1816383120000272>
- Robinson, P. H. (2019). *Principles of criminal law*. Oxford University Press.
- Sarumpaet, S. (2025). Juridical analysis of the position of laboratory results in proving narcotics crimes in the military environment (Juridical review in Decision Number 12-K/PMT-II/AU/V/2021). *Dynamics of Politics and Democracy*, 4(1), 49–64. <https://doi.org/10.35912/dpd.v4i1.2984>
- Setyadi, I., & Sukardi. (2023). Study of discipline improvement of the Indonesian State Army Force through the leadership code of ethic. *International Journal of Research in Social Science and Humanities*, 4(9), 57–63. <https://doi.org/10.47505/IJRSS.2023.V4.9.6>
- Shcherbyna, S., Novak, T., & Hnoievoi, Y. (2025). Social work for the resocialisation of drug addicts in rehabilitation centres. *Scientific Bulletin of Uzhhorod University. Series: Pedagogy. Social Work*, 1(56), 278–283. <https://doi.org/10.24144/2524-0609.2025.56.278-283>
- Tyler, T. (2017). Procedural justice and policing: A rush to judgment? *Annual Review of Law and Social Science*, 13(1), 29–53. <https://doi.org/10.1146/annurev-lawsocsci-110316-113318>
- Widiayam, S., Haris, O. K., & Abdullah, S. A. (2020). Criminal law study on narcotics abuse

rehabilitation. *IJCLS (Indonesian Journal of Criminal Law Studies)*, 5(1), 55-62.
<https://doi.org/10.15294/ijcls.v5i1.36366>