

# Implementation of Articles 112 and 127 of Law Number 35 of 2009 concerning Narcotics in Judge's Verdict Number 183/Pid.Sus/2025 at the Malang District Court, Indonesia

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## Abstract.

Law Number 35 of 2009 concerning Narcotics regulates narcotics control through repressive and rehabilitative approaches, with Articles 112 and 127 as the main provisions. This study analyzes the implementation of these two articles through a case study of Judge's Verdict Number 183/PidSus/2025/PN Malang, in which a defendant was sentenced to 5 years and 6 months in prison for possession of 0.63 grams of crystal methamphetamine, which is categorized as distribution of narcotics. The method used in this study is a normative legal method, along with a statutory approach, to analyze the case in depth using secondary data and referring to the prevailing regulations. In this article, it is found that the implementation of the law on narcotics tends to be repressive, because judges tend to ignore mandatory rehabilitation first, as stipulated in Article 103, thus reducing its effectiveness in reducing the abuse of narcotics. Some factors play a role in this verdict, including limited evidence and the availability of rehabilitation facilities. Thus, it is recommended to implement a more just verdict towards abusers rather than punishing them, since criminal law is also considered as the *ultimum remedium* contrary to humanitarian principles, and also less effective in dealing with the drug problem.

**Keywords:** Judge's Verdict, Narcotics, Rehabilitation.

## 1. Introduction

Drugs are a type of extraordinary crime, a transnational organized crime that can pose a serious threat because it can damage the very foundations of a nation's life. Drugs not only impact the health of abusers, but drug transactions and networks are also linked to terrorism (Pratama, 2023).

Drug abuse is one of the most significant social and legal issues in Indonesia, impacting not only individual health but also social, economic, and national security stability. According to the National Narcotics Agency (NNA), in 2022, there were more than 2 million active drug users in Indonesia, with a significant increase in the number of arrests (Nasional, 2022).

Here's the data relating to the most enforcement actions by five work units by the National Criminal Center under the Criminal Investigation Unit of the Indonesian National Police in 2022:

*Table 1. Table of Narcotics Enforcement in 2022*

No	Work unit	Cases
1	Regional Police of North Sumatra	381
2	Regional Police of East Java	211
3	Regional Police of South Sumatra	131
4	Regional Police of Aceh	125

No	Work unit	Cases
5	Regional Police of West Java	123

Source: National Crime Information Center of the Indonesian Police Criminal Investigation Agency in 2022

In the same year, the types of narcotics that were confiscated are as follows:

Table 2. Table of Confiscated Narcotics in 2022

No	Types	Number
1	Heroin	0,6 gr
2	Ecstasy	2.611,72 items
3	Powdered Methamphetamine	8,023 kg
4	Methamphetamine Tablets	1,37 gr
5	Crystal Methamphetamine	9,7 kg
6	Marijuana	69,8 kg
7	Marijuana Plant	70 items

Source: National Crime Information Center of the Indonesian Police Criminal Investigation Agency in 2022

The state addressed this challenge through Law Number 35 of 2009 concerning narcotics (Narcotics Law), which was issued to replace the previous law and prioritize a more humanitarian approach, especially for those who use narcotics.

The following is data from the 2022 Indonesia Drugs Report from the National Narcotics Agency's Drug Research Center, including prevalence figures and detailed data for 2019–2021:

Table 3. Table of Narcotics Abuse in Rural and Urban Areas in 2019 and 2021

No	Rural Area	Urban Area
1	Number of narcotics abuses: Year 2019: 2,30% Year 2021: 2,03%	Number of narcotics abuses: Year 2019: 2,50% Year 2021: 3,01%
2	Number of narcotics abuses: Year 2019: 1,70% Year 2021: 1,61%	Number of narcotics abuses: Year 2019: 1,90% Year 2021: 2,23%

Source: National Narcotics Agency's Drug Research Center 2022

The prevalence rate of drug abuse increased from 1.80% in 2019 to 1.95% in 2021. In general, there was a decrease in the prevalence rate in rural areas:

Table 4. Table of Narcotics Abuse in Rural and Urban Areas by Gender in 2019 and 2021

No	Rural Area	Urban Area
1	Narcotics Abuse (Male) Year 2019: 4,60% Year 2021: 3,08% Abuse per Year: Year 2019: 3,40% Year 2021: 2,26%	Narcotics Abuse (Male) Year 2019: 5,00% Year 2021: 4,53% Abuse per Year: Year 2019: 3,90% Year 2021: 3,02%
2	Narcotics Abuse (Female) Year 2019: 0,20% Year 2021: 0,98% Abuse per Year: Year 2019: 0,20% Year 2021: 0,98%	Narcotics Abuse (Female) Year 2019: 0,50% Year 2021: 1,46% Abuse per Year: Year 2019: 0,30% Year 2021: 1,45%

Source: National Narcotics Agency's Drug Research Center 2022

From the data above, we can see the risk of women being exposed to drugs has increased from 0.20% (2019) to 1.21% (2021), with the largest increase occurring in urban areas.

Meanwhile, the types of narcotics that are abused in Indonesia are as follows:

Table 5. Table of Types of Narcotics Abuse in Indonesia

No	Types	Percentage
1	Marijuana	41,4%
2	Ecstasy	25,7%
3	Psychotropic Drugs	11,8%
4	Dextro	6,4%
5	Synthetic Cannabinoid	4,1%
6	Amethyst	2,4%
7	Trihex	1,5%
8	Heroine	1,5%
9	Excessive Use of Headache Drugs	1,5%
10	Pethidine, Morphine, Opium, Codeine	1%
11	Carisoprodol	1%
12	Others	1%
13	Cocaine	0,4%
14	Ketamine	0,3%
15	Headache Drugs plus Soda	0,2%

Source: National Narcotics Agency's Drug Research Center 2022

From the data above, we can see that the majority of first-time drug users are marijuana, crystal methamphetamine, and psychotropic drugs, with the average age of first-time users being 30-40 years old.

In 2021, the number of drug abusers who participated in rehabilitation programs can be seen in the following data:

Table 6. Table of Drug Abusers and Rehabilitation Places in Indonesia

No	Place of Rehabilitation	Number of People
1	Indonesian Ministry of Law and Human Rights Correctional Institution	14,122
2	Ministry of Social's Rehabilitation Facility	10,016
3	Provincial NNA & Urban NNA	9,779
4	Society Components	4,526
5	Interventions from Society	2,396
6	National Narcotics Agency (NNA) Rehabilitation Center	1,533
7	Ministry of Health's Rehabilitation Facility	947

Source: National Narcotics Agency's Drug Research Center 2022

Meanwhile, the number of cases and suspects of narcotics crimes is as follows:

Table 7. Table of Types of Narcotics along with Cases and Suspects

No	Types of Narcotics	Cases	Suspects
1	Crystal Methamphetamine	22.950	43.804
2	Marijuana	2.105	3.690
3	Prescription Drugs	1.245	1.584
4	Hard Drugs	697	869
5	Ecstasy	485	986
6	Alcoholic Beverages	323	345
7	Synthetic Cannabinoid	320	573
8	Synthetic Marijuana	307	537

No	Types of Narcotics	Cases	Suspects
9	Limited Hard Drugs	289	367
10	Type IV Narcotics	217	418

Source: National Narcotics Agency's Drug Research Center 2022

Another data also shows the areas where the largest drug cases were revealed:

Table 8. Table of Type of Narcotics Distribution Area

No	Provinces	Numbers
1	North Sumatera	6.077
2	East Java	5.931
3	Jakarta	3.511
4	West Jawa	2.570
5	South Sumatera	2.043
6	South Sulawesi	1.923
7	Central Jawa	1.849
8	Lampung	1.709
9	Riau	1.622
10	South Kalimantan	1.549

Source: National Narcotics Agency's Drug Research Center 2022

Data also shows places where abusers use narcotics:

Table 9. Table of Places of Narcotics Abuse

No	Places	Percentage ( % )
1	House/Room/Apartment	60,3
2	Empty Houses	34,5
3	Night Clubs	29,6
4	Roads/Alley	24,8
5	Park	22,4
6	Workplaces	20,3
7	Hotel	13,6
8	Inside Car	10,5
9	Others	10,5
10	Public Toilet	9,2
11	School Area/Campus	8,3
12	Market/Roadside Stall	2,9
13	Brothel	1,8
14	Terminal/Port/Station/Airport	0,8
15	Online Game Centers	0,3

Source: National Narcotics Agency's Drug Research Center 2022

Data on rehabilitation facilities, drug abusers treated in rehabilitation centers, rehabilitation centers and BNN rehabilitation centers and recovery agents in 2021:

Table 10. Table of Numbers of Rehabilitation Centers

No	Rehabilitation Centers	Numbers
1	Government Agency Rehabilitation Facilities	341
2	Community Component Rehabilitation Facilities	338
3	Community-Based Intervention Units Are Formed	306
4	Rehabilitation Facilities That Meet Minimum Service Standards	129
5	Rehabilitation Facilities Complied With SNI 8807:2019	26

Source: National Narcotics Agency's Drug Research Center 2022

The narcotics law distinguishes between users and dealers, with the view that narcotics are not only a criminal issue, but also related to public health. Article 112 of Law No. 35 of 2009 specifically regulates criminal acts related to the possession of class I non-plant narcotics without a permit, which is intended to ensnare perpetrators of illegal trade. In this article it is stated "any individual who possesses, stores, controls, or provides Class I non-plant narcotics without the right or unlawfully, as regulated in Article 7 paragraph (1) letter a, will be sentenced to a minimum of 4 (four) years and a maximum of 12 (twelve) years in prison, and a fine of at least Rp. 800,000,000.00 (eight hundred million rupiah) and a maximum of Rp. 8,000,000,000.00 (eight billion rupiah)."

On the other hand, Article 127 of the Narcotics Law regulates the abuse of narcotics for personal use, with an emphasis on rehabilitation efforts: "Anyone who uses narcotics for personal use can be sentenced to a maximum of 4 (four) years in prison and is required to undergo medical rehabilitation and social rehabilitation." This reflects a humanitarian approach, where rehabilitation is a top priority, as clarified in Article 54, which states that narcotics users must undergo a rehabilitation process. However, in law enforcement, there is significant overlap. Many drug abusers are charged under Article 112 even though they are not proven to be dealers, due to a broad understanding of the terms "possess" or "control." (Muhammad et al., 2023)

This often occurs because law enforcement officials, including judges, focus more on the ownership aspect than on the context of personal use. The Malang District Court's decision, case No. 183/Pid.Sus/2025 is a relevant case study, where a defendant was found to be a user and was still sentenced to prison under Article 112, despite the neglected rehabilitation option under Article 127 of the Narcotics Law.

Thus, based on the data and case above, the purpose of this article is to analyze the application of Articles 112 and 127 of Law No. 35 of 2009 concerning narcotics in the context of the aforementioned decision, and to identify inconsistencies in narcotics law enforcement. This research aims to contribute to the improvement of policy and legal understanding, broadly and wisely, such as by developing clearer guidelines for judges and law enforcement officers to distinguish between users and dealers in narcotics cases.

## 2. Method

This research employs a normative juridical method, emphasizing the analysis of legal norms, statutory regulations, and court decisions as its main data sources. The approaches used include: (1) Legislative approach, which is a study of Law No. 35 of 2009 and related regulations; (2) Conceptual approach, which examines concepts such as rehabilitation and narcotics possession in legal literature; and (3) Case study approach, by analyzing in depth the decision of the Malang District Court number 183/Pid.Sus/2025 as the research subject.

Data are obtained through a library review of legal literature, including books, journals, and official documents. Primary sources include the Narcotics Law, court decisions, and reports from the National Narcotics Agency (NNA). Secondary sources consist of legal journal articles and reference books (Sihombing & Hadita, 2022). The analysis was conducted using a descriptive-qualitative approach, comparing legal norms with their application in decisions.

### 3. Result and Discussion

The district court verdict Number 183/Pid.Sus/2025, the defendant was found to be in possession of Class I narcotics, not plants (approximately 0.63 grams of crystal methamphetamine), intended for personal use, without any evidence of distribution. The prosecutor filed a charge under Article 112, paragraph (1), for illegal possession. Despite there being evidence that the defendant was an abuser who needed rehabilitation, the judge still sentenced him to 5 years and 6 months in prison in accordance with Article 112. This decision is inconsistent, because the judges focused only on possession rather than the goal of rehabilitation. A review of the verdict shows that the judge may have been subdued by the view that Class I narcotics, not plants, are always dangerous, thus not distinguishing between abusers and dealers.

Article 112 of the Narcotics Law is specifically designed to prosecute perpetrators in drug trafficking networks, encompassing crimes such as illegally possessing, storing, controlling, or providing Class I non-plant narcotics. The threat of severe penalties (4-12 years in prison) aims to curb trafficking, but in reality, law enforcement often broadens the interpretation of the term "possession." For example, if someone is caught carrying drugs for personal use, this could be considered "control" under Article 112, even though it should be regulated under Article 127 (Hariyawan & Purwani, 2025).

On the other hand, Article 127 emphasizes rehabilitation efforts for users, with a maximum sentence of four years and an obligation to undergo rehabilitation. This article is reinforced by Article 54, which states that drug abusers must undergo medical and social rehabilitation, rather than serving a prison sentence as the primary option. However, in practice, judges often ignore this, especially if the amount of narcotics found is considered large or if the defendant has a history of drug abuse (Kurniawatie, 2024).

This inconsistency creates legal uncertainty and human rights violations, as drug abusers, who should be considered as health victims, are instead treated as violators of the law. This contrasts with other countries, such as Portugal, which implemented a system of decriminalizing illicit drugs for personal use in accordance with Law 30/2000. Since July 2001, the consumption and personal possession of plants, substances, or other forms of narcotics below the prescribed limit have been subject to only administrative sanctions. Drug use remains prohibited and monitored, but not criminalized. Meanwhile, for amounts exceeding the personal consumption limit, drug trafficking is identified as a criminal offense, demonstrating that a rehabilitation approach is more effective in reducing abuse rates (Ramadhan et al., 2015).

Based on the data presented above, the author highlights the injustice that occurs in Indonesian judicial practices regarding the handling of drug users. Judges often sentence people to prison based on Article 112 of Law No. 35 of 2009, even though the law also provides rehabilitation alternatives for drug users through Articles 54, 103, and especially Article 127.

The use of imprisonment is considered unfair because it does not align with the objectives of the law and human rights principles. Rehabilitation is considered a more effective and humane way to address addiction, which is essentially a health issue, not simply a criminal act. Many mitigating factors, such as the defendant's background as an addict in need of treatment, are often overlooked by judges.

From a human rights and public health perspective, the repressive approach of imprisonment is counterproductive, worsening the situation for users, creating stigma, and

failing to address the root causes. Rehabilitation is far more beneficial because it promotes social recovery and reduces relapse rates (Ginting et al., 2025). Therefore, judges should prioritize rehabilitation for drug users in accordance with Article 127, rather than imposing prison sentences through Article 112. Reform is needed to make the legal system more just, humane, and in line with human rights principles and the goal of recovery.

#### 4. Conclusion

The application of Articles 112 and 127 of Law No. 35 of 2009 concerning Narcotics continues to give rise to differing interpretations and legal uncertainty, as evidenced by the Malang District Court's Verdict Number 183/Pid.Sus/2025. Judges frequently impose prison sentences under Article 112, even though the defendant is only a user, thereby neglecting the law's goal of rehabilitation. This situation not only contradicts humanitarian principles but is also ineffective in addressing the drug problem, which should be viewed as a health issue.

Thus, several suggestions are made to make a better implementation of Narcotics Law: (1) Preparation of technical guidelines by the Supreme Court in collaboration with the National Narcotics Agency (NNA) to differentiate between users and dealers; (2) Training for judges and prosecutors on the rehabilitative approach; and (3) Changes to the law to strengthen the focus on rehabilitation. Further research can be done by conducting follow-up studies on more decisions to observe at the national level.

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