

Review Article

Protection of Human Rights for Narcotics Users: A Critique of the Use of Criminal Sanctions in Efforts to Eradicate the Spread of Narcotics in Indonesia

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Abstract

The concept of sanctions in the Narcotics Law is the imposition of sanctions that focus on retaliation; this can be seen in regulating the types of hefty criminal sanctions against the perpetrators of narcotics crimes. The imposition of criminal sanctions in the Narcotics Law is imposed on users, dealers and producers. With the concept of penal sanctions that are monistic, the penalty hurts physically really enjoy, like a sentence. Prison apart from the concept of deterrence of retaliation, in the Narcotics Law, the penalties for narcotics users and Narcotics traffickers are the same. The imposition of the same sentence resulted in human rights violations for narcotics users because narcotics users should be prioritized to get Rehabilitation rather than imprisonment. Forms of violations of human rights violations in the Narcotics Law, namely the right to live and the right to health for narcotics users in Indonesia.

Keywords: Human Rights; Indonesia; Narcotics Users; Drugs

Introduction

The circulation of illegal drugs or narcotics that have been rampant in Indonesia has made the young generation an easy target for their future. However, it is in contrast to the courier or dealer and even the drug dealer themselves who get such a massive profit from this illicit business's proceeds [1]. Drugs themselves have become a serious problem experienced by nations in the world, including Indonesia. So that handling and law enforcement must be processed seriously as well. Narcotics crime in Indonesia shows an increasing trend quantitatively and qualitatively with widespread perpetrators and victims, as victims, especially among children, adolescents and the younger generation in general [2]. Many Narcotics Offenses are no longer carried out individually but involve many people together, even as an organized syndicate with a network international that works neatly and is very secretive both at the national and international levels [3]. As part of the international

community, Indonesia is also aware of the impact of narcotics and psychotropic substances on the life and future of the nation, nationally declares war on narcotics and psychotropic substances by establishing legal rules to ensnare the perpetrators of these narcotics and psychotropic crimes [4]. Two laws can be used as a reference relating to Narcotics, namely Law Number 5 of 1997 concerning Psychotropics (abbreviated as the Psychotropic Law) and Law Number 35 of 2009 concerning Narcotics (abbreviated as the Narcotics Law) [5]. Although drugs are always identical to goods that are considered harmful, the current development of narcotics use is not only for the health sector and science and technology but has shifted to seeking large profits by misusing them. Simultaneously, the criminal sanctions in Law Number 35 of 2009 concerning Narcotics (Narcotics Law) contain quite heavy sanctions ranging from criminal fines, life imprisonment, and even the death penalty. The death penalty is a radical attempt to eliminate those who cannot be repaired". The imposition of extreme sanctions in the Narcotics Law, namely the imposition of capital punishment given to dealers, couriers, and narcotics users, the death penalty sanction in the Narcotics Law is due to the effects of using very dangerous narcotics [6]. Drug abuse is hazardous because it can affect the nervous system to cause changes in behaviour, feelings, perceptions, and awareness. It also results in addiction and dependence. The use of drugs in general and psychotropic substances that are not by the rules can cause harmful effects to the body [7]. The effects of drug abuse can be divided into three: first, depression, which suppresses the systems nervous central and reduces the body's functional activities so that the user feels calm, and can even make the user sleep and become unconscious.

When overdosing can lead to death. Depressants such as morphine and heroin or putaw; second, stimulants create stimulation for bodily functions to increase arousal and awareness. These types of stimulants include: caffeine, cocaine, and amphetamines (ecstasy and methamphetamine); third, hallucinogens, the main effect is resulting in hallucinations. These hallucinogens come mostly from plants such as mescaline from cacti and psilocybin from mushrooms. Some are mixed in the laboratory, for example, LSD, but the most widely used is marijuana. The effects caused by the use of narcotics without a doctor's prescription have a horrible effect on the body. Therefore, sanctions in the Narcotics Law are given to distributors and users. Sanctions given to users only refer to the Narcotics Law's violators, even though narcotics users can be seen from two perspectives, namely as perpetrators and victims. If Users are narcotics seen from the victim's point of view, the imposition of criminal sanctions such as looting is a violation of human rights because victims should be protected by the state and receives proper handling and treatment. Based on the above background, the author will discuss the concept of imposing criminal sanctions on narcotics offences in Indonesia and criticism of the protection of human rights against narcotics users in Indonesia.

Materials and Methods

The discussion of the problems raised in this study is discussed and analyzed using a doctrinal legal research methodology. Doctrinal legal research methodology focuses on legal issues based on previous legal doctrines or opinions relevant to the legal issues discussed. So that in this study, to discuss legal issues regarding the types of legal research methodologies and their characteristics and their functions in parsing contemporary legal problems, using literature study as a basis for answering these problems [8]. The data used in this research is secondary data, which comes from the literature search results. This research will be presented in a descriptive analytical form. The descriptive analytical method is a method that functions to describe or give an overview of the object under study through data or samples that have been collected as is without analyzing and making general conclusions. In other words, analytical descriptive research takes problems or focuses on problems as they are when the research is carried out; the research results are then processed and analyzed to conclude [9].

The Concept of Imposing Criminal Sanctions on Narcotics Offences in Indonesia

The application of the rule of law is one of the systems that must be carried out to realize a legal goal itself, namely achieving justice, benefit and legal certainty. Indonesia has now become a place for narcotics marketing [10]. It is even used as a producer for this type of narcotics. If this is not tackled effectively, it will threaten the lives of the Indonesian nation's younger generation. To protect Indonesian citizens from the dangers of abuse of Narcotics and prevent and eradicate illicit trafficking of Narcotics, Law Number 35 of 2009 also regulates Narcotics Precursors because Narcotics Precursors are substances or starting ma-

terials or chemicals that can be used in the production of Narcotics [11]. This Law is attached regarding Narcotics Precursors by classifying the types of Narcotics Precursors. Besides, criminal sanctions for abuse of Narcotics Precursors for the manufacture of Narcotics are also stipulated. To create a deterrent effect on the perpetrators of abuse and illicit trafficking of Narcotics and Narcotics Precursors, the imposition of criminal sanctions is regulated, either in the form of a particular minimum sentence, imprisonment of 20 (twenty) years, life imprisonment and the death penalty. Such criminal charges shall be carried out based on the class, type, size and number of the Narcotics. The concept of criminal sanctions in the Narcotics Law is based on the Criminal Code. In the Criminal Code, the types of sanctions are listed in Article 10 of the Criminal Code. The forms of criminal sanctions can be distinguished between primary and additional penalties. Below are the forms of crime, including the primary and additional crimes, namely:

- a. Principal Crime;
 - b. Death penalty;
 - c. Prison Criminal;
 - d. Criminal confinement;
 - e. Criminal Covering; and
 - f. Criminal Fines. Additional Criminala. Revocation of Certain Rights;
 - b. Confiscation of Certain Goods; and
 - c. Announcement of Judge Decisions
- Based on Article 10 of the Criminal Code regarding the types of criminal sanctions, the Narcotics Law also has the same concept of imposing criminal sanctions. In imposing criminal sanctions, it is necessary to determine the categories of dangerous narcotics, that Narcotics are divided into three groups, based on Article 6 Narcotics, as referred to in Article 5, are classified into:
1. Narcotics Category I;
 2. Narcotics Category II; and
 3. Narcotics Category III. Narcotics classification is referred to in paragraph (1) for the first time set out as specified in Appendix I and forms an integral part of this Act.
- (3). (2) A Ministerial Regulation regulates provisions regarding the change in the classification of Narcotics as referred to in paragraph (2). The three categories of narcotics above are types of narcotics that, if used without a doctor's prescription, are criminal offences for narcotics to be subject to criminal sanctions. There are criminal sanctions stipulated in the Narcotics Law in articles, namely articles 113, 114, 118, 119, 121, 144. The concept of sanctions in the Narcotics Law is to stipulate severe penalties for narcotics traffickers up to the threat of the death penalty for narcotics offenders. One of the articles that threaten the death penalty is contained in Article 114, paragraph 2, as follows: "In the event of an act of offering for sale, selling, buying, being an intermediary in the sale and purchase, exchanging, delivering, or receiving Narcotics Category I as referred to in paragraph (1) which in the form of plants weighing more than 1 (one) kilogram or more than 5 (five) tree trunks or

in non-plant form weighing 5 (five) grams, the perpetrator will be sentenced to death, life imprisonment, or imprisonment for a minimum of 6 (six) years and a maximum of 20 (twenty) years and the maximum fine as referred to in paragraph (1) plus 1/3 (one third) ". The concept of sanctions in the Narcotics Law is the imposition of sanctions that focus on retaliation. This can be seen in regulating the types of hefty criminal sanctions against the perpetrators of narcotics crimes, with the death penalty, life imprisonment, maximum imprisonment of 20 years, imprisonment and fines of hundreds of millions to billions of rupiah. The imposition of criminal sanctions in the Narcotics Law, which is retaliatory, is based on the Criminal Code, which focuses on retaliation. In the imposition of sanctions contained in the Criminal Code, it still applies to the monistic theory, which states that the nature of being against the law (*wederrechtelijkheid*) and guilt (*Schuld*) are elements of criminal acts (*strafbaar feit*) [12]. The imposition of criminal sanctions in the Narcotics Law is imposed on users, dealers and producers. Narcotics offenders can be subject to Law Number 35 of 2009 concerning Narcotics; this can be classified as follows: 1. As users. Subject to criminal provisions under Article 116 of Law Number 35 of 2009 concerning Narcotics, with a minimum penalty of 5 years and a maximum of 15 years.

2. As a dealer. Subject to criminal provisions under articles 81 and 82 of Law Number of 2009 concerning narcotics, with the threat of a maximum penalty of 15 plus a fine.

3. As a producer. Subject to criminal provisions under Article 113 of Law Number 35 2009, with a maximum penalty of 15 years/life/death plus a fine. Apart from the perpetrator, some actions can be subject to sanctions in the Narcotics Law, namely: From the criminal provisions stipulated in Chapter XV of Law Number 35 2009 concerning narcotics, they can be grouped in terms of the form of their actions as follows:

- a. Crimes related to the control of narcotics;
- b. Crimes involving the transportation and transfer of narcotics;
- c. Crimes involving the sale and purchase of narcotics;
- d. Crimes involving the production of narcotics;
- e. Crimes related to narcotics abuse;
- f. Crimes involving not reporting narcotics addicts;
- g. Crimes involving narcotics of labelling and publication;
- h. Crimes relating to the course of the narcotics court;
- i. Crimes involving the confiscation and destruction of narcotics;
- j. Crimes involving false information;
- k. Crimes relating to the storage of institutional functions;
- l. Crimes involving the use of minors;
- m. Crimes involving precursors of narcotics;
- n. Crimes related to narcotics committed by corporations;

o. Crimes involving narcotics by consensus; and

p. Crimes related to the disguise of the results of the narcotics crime. The types of perpetrators and the types of acts above are considered violations of the Narcotics Law, so the sanctions imposed are sanctions based on the Narcotics Law. With the concept of penal sanctions that are monistic, the penalty hurt physically really enjoy, like a sentence, prison in each chapter on the criminal sanctions it always tucks punishment of imprisonment or confinement. So it is evident that the concept of imposing criminal sanctions in the Narcotics Law is Retaliation, in addition to criminal sanctions that are oriented towards retaliation, while the formulation of the Narcotics Criminal Act is imposed cumulatively, namely imposing two main types of criminal sanctions at once, for example, imprisonment and criminal fines or the death penalty [13]. Protection of Human Rights for Narcotics Users in Indonesia Historically, the emergence of Human Rights is a process of defending the public for actions arbitrary committed by the state and the imbalance of the state's position with society. In the perspective of the Universal Declaration of Human Rights, the general declaration of human rights, the death penalty is prohibited. This is following the provisions in Article 3 of the Universal Declaration, which reads: "every human being has the right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life" [14]. The recognition of human rights widely by nations worldwide is the existence of the UN Charter, namely the Universal Declaration of Human Rights. Its founders, such as the United States, France, the Soviet Union, and Britain, declared human rights in effect on December 10, 1948. This means that UN member states are obliged to include human rights in their respective countries' constitution [15]. Indonesia is a member of the United Nations, so Indonesia must also uphold human rights. Indonesia in upholding human rights can be seen by having a Law on Human Rights, namely Law Number 39 of 1999 concerning Human Rights [16]. Even though we already have a Human Rights Law, many human rights violations have occurred. Human rights violations often occur both in society and in the judicial process. Human rights must always be raised in every law making because the state must guarantee its citizens' human rights. Protection of human rights for narcotics users in the Narcotics Law must be made more apparent because the Narcotics Law regulations show that the penalties for traffickers and users are the same. When viewed from the victim's perspective, narcotics users can be victims, so it is only natural that they must be protected [17]. Narcotics traffickers, in legal terms, are categorized as perpetrators (*daders*), but users can be categorized as either perpetrator or victims. In Law Number 35 of 2009 concerning Narcotics, narcotics abusers are divided into two categories, namely the perpetrator as "dealer" and "user". The Narcotics Law does not explicitly define the definition of a narcotics dealer. It can be said implicitly and narrowly that a "narcotics dealer" is a person who carries out the distribution and delivery of narcotics. However, broadly the definition of "narcotics dealer" can also be carried out and oriented to

the seller's dimensions, the buyer to distribute, involve, store, control, provide, export and import narcotics activities. In the provisions of Law Number 35 of 2009 concerning Narcotics, the "dealer" is regulated in Articles 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, and 126. In essence, policy formulation criminal sanctions for "dealers" and "User" Indonesian Drug Act substantially in this study emphasized violations of the Narcotics Act/Law on Psychotropic Substances. M. Cherif Bassiouni in "Substantive Criminal Law" stated that there are 3 (three) policies, namely formulating/legislative policies, applicable/judicial policies and administrative/execution policies. Formulative policies are policies that are strategic and determined because errors in legislative policies will affect applicable/judicial policies [18]. Users are people who use substances or drugs derived from plants, both synthetic and semi synthetic, which can cause a decrease or change in consciousness, loss of taste, reduce pain, and lead to dependence, which is differentiated into groups as attached in the Narcotics Law/Psychotropics. In the provisions of the Narcotics Law, the "user" is regulated in Articles 116, 121, 126, 127, 128, 134, and in the Psychotropic Law, it is regulated in Articles 36, 37, 38, 39, 40, 41, 59 paragraph (1) letter a, b and Article 62 of the Psychotropic Law. The juridical implication of the provisions of Article 4 letter d, Article 54 and Article 127 of the Narcotics Law is to determine drug users as victims or perpetrators, namely narcotics users as perpetrators of criminal acts and at the same time as victims. The purpose of punishment in the Narcotics and Psychotropic Law here, as the general objective applicable in criminal law, is to impose a sentence on someone who has committed a criminal act. Specifically, the Narcotics and Psychotropics Law is against the use of narcotics and psychotropic substances and is aimed at the illicit trafficking of narcotics. In judicial practice, the logical consequence of the Narcotics/Psychotropic Law's normative formulation is that both "dealers" and "users" will be penalized. The Understanding between users and dealers of ambiguous narcotics in the narcotics law results in the punishment for narcotics users is the same as for narcotics traffickers. The imposition of the same sentence is very unfair from a human rights perspective. Sanctions received by narcotics users are imprisonment up to the threat of a death sentence, whereas if look carefully, narcotics users can also be seen from the victim's perspective. The threat of the death penalty for narcotics users is seen in Article 114 paragraph 2 as follows: "In the event of an act offering to sell, buy, become an intermediary for sale and purchase, exchange, deliver, or receive Narcotics Category I as referred to in paragraph (1) in the form of plants weighing more than one kilogram or more than five trees or non-plants weighing more than one kilogram Five grams. The perpetrator is punishable by the death penalty, life imprisonment or imprisonment of a minimum of six years and a maximum of twenty years and a maximum fine as referred to in paragraph (1) plus one third. "From the article above, the Act deemed to violate the Narcotics Law is in terms of the Act of offering to sell, sell, buy, become an intermediary in

the sale and purchase, exchange, deliver, or receive Narcotics Category I. From the above explanation, it can be seen between the seller "dealer" and the buyer "User" can be subject to the same criminal sanctions, namely sentenced to the death penalty, life imprisonment, or imprisonment for a minimum of 6 (six) years and a maximum of 20 (twenty) years and the maximum fine as referred to in paragraph (1) is added—1/3 (one third). If narcotics users are seen as victims, they should get sanctions or different treatments. Narcotics users should receive rehabilitation treatment first because narcotics users physically experience pain due to narcotics use. If narcotics users are considered criminals, then the next question is who is the victim of crimes committed by narcotics users, because in criminal law, it is known that "there is no crime without a victim", so that the victim is himself (false victims). From the perspective of victim responsibility, thus, "self-victimizing victims" are those who become victims because of crimes they have committed themselves [19]. As a victimless crime, this view forms the premise that there is no crime without victims. All or every crime involves 2 (two) things, namely criminals and victims. For example, self-victimizing victims are drug addicts, alcoholism, homosexuality, and gambling. This means that the entire responsibility lies with the perpetrator, who is also the victim [20]. Drug users, if it is considered as a victim in Act the Narcotics can get treatment rehabilitation following the requirements requirements stipulated in the Supreme Court Circular Number 04 of 2010 concerning the Determination of Abuse, Abuse Victims, and Narcotics Addicts, where the User is put into the Medical Rehabilitation and Social Rehabilitation Institution. The definition of Rehabilitation itself is Rehabilitation of narcotic addicts is "a treatment process to free addicts from dependence, and the period of undergoing rehabilitation is calculated as a period of serving a sentence". Rehabilitation of narcotics addicts is also a form of social protection that integrates narcotics addicts into a social order to no longer commit narcotics abuse. Rehabilitation (recovery) is translated as help to convicts to recover as expected. The consequence, of course, is to eliminate suffering as much as possible. In practice, there is the ambivalence between Rehabilitation as part of criminal sanction or Rehabilitation in terms of treatment [21]. If they are considered victims in the National Childhood Law, Narcotics users can receive treatment in Rehabilitation according to the requirements. The requirements set out in the Supreme Court Circular Number 04 of 2010 concerning the Determination of Abuse, Abuse Victims, and Narcotics Addicts, where the User is put into the Medical Rehabilitation and Social Rehabilitation Institution because the two goals are contradictory. The classification of criminal acts is determined as follows: 1. At the time of his arrest by Police investigators and National Anti-Narcotics Agency investigators, the defendant was in a state of being caught red handed. It should be differentiated so as not to collect narcotics users in prison when they should be rehabilitated. The criminal provisions in the Narcotics Law have almost no difference with Law Number 22 of 1997. The only thing

that distinguishes between the two is the emergence of interpretations in the Narcotics Law provisions to increase sanctions for defendants in narcotics cases. Such provisions, if implemented, will perpetuate police practices so far, which often impose articles on circulation (article 78 of Law Number 2 of 1997) and sale (Article 82 of Law Number 22 of 1997) against drug users/addicts who are caught by the police. Whereas narcotics users/addicts should be subject to Article 85 of Law Number 22 of 1997, which asks judges in court to consider the rehabilitation sentence for narcotics users/addicts under the Supreme Court Circular Letter Number 7 of 2009 concerning Placing Drug Users in an Institution. Therapy and Rehabilitation. 2. Apart from being inhuman, such perverted practices are proven to lead to legal violations by the police, such as torture, extortion, soliciting bribes, and sexual harassment.

3. When being caught red handed by point an above, evidence of use is found for 1 (one) day:a. A positive laboratory test letter using narcotics based on the request of the investigator;

b. Need a statement from a government psychiatrist/psychiatrist appointed by the judge; and

c. It cannot be proven that the person concerned was involved in the trafficking of narcotics. After fulfilling the conditions above, the panel of judges examining and deciding cases of narcotics users must clearly and designate the nearest rehabilitation place in the verdict, taking into account the accused's condition/level of addiction. As a consequence, narcotics users are perpetrators of criminal acts. At the same time as victims, the period of undergoing treatment and treatment for narcotics addicts as decided by the Panel of Judges adjudicating the case is counted as serving a sentence, where the expert determines the determination to undergo the treatment and treatment period. However, despite issued the Supreme Court Circular Letter Number 04 of 2010 concerning Determination of Abuse, Victims of Abuse, and Narcotics Addicts, where Users are admitted to the Medical Rehabilitation and Social Rehabilitation Institution does not mean that the Narcotics Law/Psychotropic Law does not have juridical implications for drug users. Globally, this juridical implication is oriented towards implementing regulations for the Narcotics Law. Strictly speaking, the implementation of the Narcotics Law can be effective if there are implementing regulations. Then there are overlapping convictions for narcotics users, and there is no limit on the expiration date for narcotics users and the relatively tricky implementation of Supreme Court Circular Letter Number 04 of 2009 concerning Placing Drug Users in Therapeutic and Rehabilitation Institutions. The minimal criminal system, which closes judges from making decisions, is less than the minimum punishment. Whereas decision 10 of Law Number 35 the of 2009 concerning Narcotics. Article 54 is less than the minimum sentence allowed by the Chief Justice of the Supreme Court. There is no expiration in the Narcotics Law. This allows narcotics users who have not used narcotics to be punished at any time if it is proven that they have used narcotics in the past.

Therefore, it should be a clear expiration set. There are provisions regarding the time limit in criminal law for perpetrators of criminal acts as regulated in Article 78 paragraph (1) of the Criminal Code, stating: "The authority to prosecute a sentence is abolished due to expiration: first. Regarding all violations and crimes committed by printing, after one year 2. Regarding crimes punishable by a maximum fine of three years. Concerning crimes punishable by imprisonment of more than three years, after twelve years of life imprisonment, after eighteen years. There are no exceptions stipulated for the period for narcotics users who are already in the stage of being ex-narcotics users. Law enforcement officials have designated users as the Wanted People List to supervise the use of narcotics that are not covered up. So it becomes a very natural thing if there are many rehabilitation places found or supervised by law enforcement officers (investigators) either wearing official clothes or not wearing official clothes. Apart from the juridical issues in the Narcotics Law, there is also a strong criticism of the Narcotics Law when perspective viewed from human rights. The harsh criticism is due to the imposition of the death penalty, which can be imposed on narcotics users. If more deeply understood, the meaning of the death penalty's imposition in the law Narcotics contradicts human rights. Violation of the right to life guaranteed by the ICCPR as a right that cannot be reduced under any circumstances: marked by the stipulation of the death penalty as a punishment for crimes related to narcotics, Asian countries such as Indonesia, Singapore, Vietnam and Malaysia implement this provision. Apart from violating the right to live, the Narcotics Law also violates the Right to Health. Efforts to reduce the demand for narcotics are carried out by violating health laws where service providers must be based on a consensus, with the punitive concept of service being enforced mandatory in violation of the right to health, this provision is regulated in Law Number 35 of 2009 obliged to report is punishable by imprisonment. The punitive narcotics policy impacts the failure of efforts to prevent the spread of HIV because the uncontrolled and unregulated practice of narcotics use makes access to information used on safe narcotics unavailable [22]. Discrimination due to domestic laws that do not clearly distinguish between drug users, dealers, and abusers mean that access to Rehabilitation does not touch all drug users and addicts [23]. Narcotics punitive policies prevent access to essential health, especially for narcotics addicts, because addicts will be sentenced to prison [24]. Narcotics policy with a punitive approach is more aimed at criminalizing narcotics users, with use without interference or with interference [25]. This punitive approach is used in the Narcotics Law in Indonesia. Based on the Correctional Database System, as of October 2017, 29,983 narcotics users live in prisons and detention centres in Indonesia; this number includes narcotics addicts. The rehabilitation mechanism presented in Law Number 35 of 2009 is not provided in prisons, not to mention the problem of overcrowded prisons hindering prisons and detention centres' performance, including providing a decent standard of living for narcotics addicts in prisons and detention centres. Whereas the right to health is

regulated in the constitution of Article 28 H paragraph (1) that everyone has the right to health and health services is a human right, and according to Health Law No. 36 of 2009, the fulfilment of services health is carried out with the principle of non-discrimination, and the problem of narcotics addiction. Based on the International Classification of Diseases and Health Problems (ICD-10) from the World Health Organization (WHO), it is a relapsing psychological and physical disease that requires services to reduce the resulting adverse effects [26]. Therefore, the approach that should be presented for narcotics users is decriminalization and reducing the adverse effects of narcotics use. This principle can narrow the black market for narcotics by regulating and controlling the demand for narcotics so that if demand is controlled and legally accessible, the supply from the black market will decrease [27]. Therefore, instead of using a punitive concept approach which is considered insufficient. Effective, then the concept of decriminalization is more practical. Decriminalization is defined as the removal or taking of non-criminal sanctions on activities certain. Decriminalization of drug use refers to eliminating or taking non-criminal penalties for drug use cases, possession of drugs, possession of drug use equipment, and the cultivation of narcotics for personal consumption [28]. Decriminalization makes it possible to remove all forms of punishment [29]. Another option is the imposition of civil or administrative sanctions rather than criminal penalties. If so, the sanctions would be less punitive than punishments based on criminalization and then lead to increased voluntary access to evidence based and human rights based harm reduction and improved health and social services [30]. Decriminalization is divided into two: (1) decriminalization de jure, criminal penalties for certain activities are formally abolished through legal reform; (2) decriminalization de facto, certain activities remain criminal offences but, in practice, criminal penalties are not applied [31]. Good practices in implementing decriminalization of users and reducing the harm of narcotics can be seen from those implemented in several countries [32]. One of them is Portugal which implemented decriminalization in 2000. Previously in the 1900's, Portugal was one of the poorest countries in Europe, experiencing a 57% increase in the number of deaths due to narcotics in 1997-1999 [33]. In 2000 Portugal reduced the consumption and use of narcotics from criminal offences to administrative offences by setting a limit on the use of narcotics for one person for ten days. Portugal has also set up a *Dusiasi* Commission consisting of social workers, psychiatrists and legal experts in 18 provinces to determine whether a person has an addiction or not. Rehabilitation or reduction of the harm from narcotics is carried out by using an individual approach. Five years after the decriminalization was implemented, the annual overdose rate decreased from 400 to 290. The number of narcotics seized by the state also increased. The number of patients willing to be treated also increased by 67% from 1998 to 2008. This policy was able to successfully reduce HIV transmission by almost 50% from 2000 to 2008 [34]. Decriminalization was also implemented in the Czech Republic in 1998 by the Czech Republic government. Con-

ducted research on narcotics law there and concluded that the law in force was unable to reduce the problem of narcotics use and narcotics availability. Post-decriminalization has been an increase in Cannabis users by 25%, but most of them are not regular users. This policy also resulted in a reduction in HIV transmission to narcotics users to only 1% [35]. The Netherlands also imposes decriminalization of the use of Cannabis which aims to protect Cannabis users from access to unsafe Cannabis and other dangerous narcotics [36]. The program is implemented by providing methadone, a particular consumption room and a syringe replacement program. This reduction in the effects adverse of narcotics is the decline in the number of drug users in Europe, and the Netherlands is listed as the country with the lowest number of drug users in Europe 25.7% of the Dutch population stated that they had tried Cannabis but did not make them other drug users. The Netherlands is also listed as the country with the lowest number of drug users infected with HIV in Europe [37].

Conclusion

The concept of sanctions in the Narcotics Law is the imposition of sanctions that focus on retaliation. This can be seen in regulating the types of hefty criminal sanctions against narcotics crimes perpetrators. With the death penalty types, life imprisonment, maximum imprisonment of 20 years, imprisonment and fines of hundreds of millions to billions of rupiah. The imposition of criminal sanctions in the Narcotics Law, which is retaliatory, is based on the Criminal Code, which focuses on retaliation. With the concept of retaliation, the sanction that is more emphasized is the sanction that is painful physically, such as a looter. This has a significant impact on the perpetrators of criminal acts in the Narcotics Law. In the Narcotics Law, narcotics users are considered one of the legal subjects who violate the Narcotics Law. It is considered that narcotics users are legal subjects who violate Narcotics because the Narcotics Law uses the punitive concept; Narcotics Policy with a punitive approach is more targeted at criminalizing narcotics users, with use without interference or with interference—using this punitive approach results in violations of human rights in the form of the right to life and the right to health. The use of the punitive approach is considered less effective so that the decriminalization approach is considered a more practical concept. Decriminalization is defined as the removal or taking of non-criminal sanctions on specific activities. Decriminalization is defined as the removal or taking of non-criminal sanctions on specific activities. Decriminalization makes it possible to remove all forms of punishment. Another option is the imposition of civil or administrative sanctions rather than criminal penalties. If so, the sanctions would be less punitive than punishments based on criminalization, leading to increased voluntary access to evidence based harm reduction and human rights and improved health and social service.

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