

Decriminalization as a Concept of Protection for Narcotics Addicts as Victims

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Abstract

The criminal law policy that considers every form of dependence caused by narcotics must receive rehabilitation, one of which can be reviewed based on Article 55 of Law Number 35 of 2009 concerning Narcotics. The responsibility of the state to repair and recover addicts from narcotics dependence can be done concretely through jurisprudence that has a paradigm of Protection for narcotics addicts as well as the paradigm of the state which has responsibility for the survival of narcotics addicts against narcotics abusers in Indonesia and how to formulate decriminalization as a form of justice for narcotics addicts. This research is included in normative juridical law research. Legal research that wants to examine the effectiveness of statutory regulation is a comparative study between legal reality and legal ideals, where the law is conceptualized as what is written in legislation or statute is conceptualized as a rule or norm, which is a benchmark for human behaviour that is considered appropriate. The study results show that the laws and regulations governing narcotics require renewal of the substance of the articles in the direction that describe the qualifications of addicts as victims or addicts as perpetrators of narcotics crimes; the law can substantively determine concrete Protection for drug addicts.

Keywords: *Criminal Law Policy, Justice, Addict.*

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A. INTRODUCTION

Narcotics are substances that were initially used for medicinal purposes, but along with the development of science and technology, irresponsible persons with the aim of illicit narcotics trafficking have developed narcotic substances with combinations of chemical compounds in specific doses to be misused (Arimuladi et al., 2021; Ermawan et al., 2022).

Consumption of narcotics outside of supervision referred to as narcotics abuse, has been proven to be harmful to health, especially the opiate nature of narcotic substances that cause dependence (Nawawi & Patittingi, 2021; Situmeang, 2020). In the future, narcotics abuse can cause distortion and weaken national resilience because many young people are involved in drug abuse, whereas on the shoulders of the younger generation is the baton of national development. On the other hand, human resources are nothing but one of the primary keys for Indonesia to play a role in global competition, so its development requires strategic steps from all stakeholders (Wibowo et al., 2021; Putri et al., 2022).

Currently, Indonesia is facing the problem of narcotics abuse, the number of which is increasing, and there is a tendency to increase every year. Narcotics abusers are no longer only urban people but have penetrated the countryside with coverage

of almost all levels of society from various professions (Nawawi et al., 2021; Pasaribu et al., 2020).

Regarding how narcotics abusers get narcotics, a survey conducted by the National Narcotics Agency of the Republic of Indonesia found that when viewed from the domicile perspective, friendship was the first source of drug abusers to get narcotics, both from rural areas (86.3%) and urban areas. (94.0%), because friendship is a group social phenomenon that occurs in society, especially in rural communities with a strong level of mutual cooperation (*gemeinschaft*) characterized by the nature of the intimate relationship between its members. This intimacy is an influential factor in the spread of narcotics abuse due to the reluctance of one member who joins a social group for narcotics abusers not to participate in abusing narcotics (Tumanggor et al., 2019; Yuliartini et al., 2022).

Friendship became the most prominent source of narcotics acquisition (96.5%), as happened when you first abused narcotics. This trend is also seen in the background of narcotics abusers by gender, namely male (96.7%), female (93.2%), and from rural (96.6%) and urban (96.2%) domiciles. Meanwhile, narcotics abusers during abuse in obtaining narcotics originating from relatives (brother/sister) factors are very large, both in rural areas (100.0%) and urban areas (100.0%). This shows that the brothers do not remind each other of the dangers of narcotics, but on the contrary, there is cooperation to obtain narcotics. Meanwhile, dealers/distributors/couriers are not very prominent as a source of narcotics acquisition for drug abusers, both from men (23.5%), women (12.3%), and from rural backgrounds (25.8%) and urban areas (15.1%) during drug abuse.

What is even more terrifying is the statement by the Deputy for Rehabilitation of the National Narcotics Agency of the Republic of Indonesia, which says that of the total population in Jakarta, there are $\pm 7\%$ or around 300,000 people who are indicated as narcotics addicts. If every area in Jakarta has 1,000 Rukun Tetangga, it means that there are about 60 addicts in each Rukun Tetangga, which is quite alarming and can no longer be handled by means of counseling.

The impact of dependence on narcotics and psychotropic substances on a person can be seen in physical disorders in the form of seizures, hallucinations, impaired consciousness, and peripheral nerve damage, as well as mental disorders such as anxiety and excessive anxiety (Idy et al., 2021; Anzani, 2022). Bawono (2020) and Ariyanti (2018) suggest that drug addiction may be an outcome similar to cardiovascular disease involving negative consequences caused by narcotic use.

Concerning narcotics abuse, narcotics and psychotropic abuse are the initial stages, where a person begins to look for or try narcotics/psychotropics that are not based on medical reasons (Daniels et al., 2018). This stage is not yet an addiction (dependence) stage. Still, the abuse stage can be considered a narcotic/psychotropic crime stage, regardless of the factors that cause a person to abuse narcotics and psychotropic substances, such as the desire to try, wanting to be different, and lack of confidence. , in addition to using drugs as a lifestyle, environmental influences,

inappropriate relationships, peer group pressure, coercion, being framed, work pressure, and learning pressure (Saefudin & Hartiningsih, 2020; Sanjaya, 2020).

When a person can no longer release himself from consuming narcotics and psychotropics, this stage is referred to as addiction, which stage is considered an advanced stage of the narcotics and psychotropic abuse stage, so the addiction stage can be formulated as perpetrators of narcotics and psychotropic abuse as regulated in the regulatory system current regulation (Malik, 2019; Sanjaya et al., 2022).

One of the legal efforts to tackle narcotics abuse in Indonesia is made with a disciplinary approach, in which people proven to have abused narcotics are subjected to imprisonment (vide Article 127 paragraph (1) of Law Number 35 of 2009). However, the penal policy did not reduce the number of narcotics abusers; on the contrary, the policy of a punitive approach to narcotics abusers caused overcrowding of state detention centers and correctional institutions.

Various countries know that drug abuse's main problem is the illicit trafficking of narcotics. The birth of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 is a form of concern from countries around the world regarding the production, demand, abuse, and illicit trafficking of narcotics and psychotropic substances, and the use of children and adolescents for the consumption of narcotics and psychotropic substances as marketing purposes from the production, distribution and illicit trade of narcotics and psychotropic substances (Yunus & Lasori, 2021; Saefudin, 2019). The main idea of the Convention is the need to give top priority to the eradication of illicit narcotics and psychotropic substances, as well as to strengthen more effective legal means in the framework of international cooperation to combat the illicit trafficking of narcotics and psychotropic substances.

In connection with efforts to overcome narcotics abuse, especially against narcotics addicts, where narcotics addicts are people who are already in a state of dependence both physically and psychologically on narcotic substances, this has been regulated in Article 54 of the Law of the Republic of Indonesia Number 35 of 2009 that addicts Narcotics are required to undergo medical rehabilitation and social rehabilitation. However, in reality, there is a uniformity in the application of this Article at the application level because some have been proven to be addicted to narcotics and are subject to imprisonment, some are subject to imprisonment and rehabilitation, and some are rehabilitated.

The non-uniformity of treatment for narcotics addicts is already contained in the regulations contained in the Law of the Republic of Indonesia Number 35 of 2009, where Article 103 paragraph (2) of the Law of the Republic of Indonesia Number 35 of 2009 stipulates that the period of undergoing treatment and treatment for Narcotics Addicts as referred to in paragraph (1) letter a is calculated as a period of serving a sentence. Suppose narcotics addicts are seen as perpetrators of criminal acts. In that case, they should be explicitly included in the regulation of Chapter XV of Law Number 35 of 2009, which regulates criminal provisions, which is not the

case. This gives rise to many interpretations of how the treatment of narcotics addicts should be applied, leading to unequal treatment of narcotics addicts. Meanwhile, on the other hand, the question remains whether narcotic addicts can be accounted for as criminals. Moreover, what is the ideal thing to do with narcotics addicts so that they can return to being healthy human beings who, in turn, can contribute to the development of the nation and state?

B. METHOD

This research uses normative juridical law research. Legal research examining the effectiveness of statutory regulation is a comparative study between legal reality and legal ideals. The law is conceptualized as what is written in legislation (law in books) or is conceptualized as a rule or norm, which is a benchmark for appropriate human behavior.

C. RESULT AND DISCUSSION

1. Criminal Law Policy in the Law of the Republic of Indonesia Number 35 of 2009 Against Narcotics Abuse, Especially Against Addicts

Etymologically, policy means dealing with public problems or government administration. Henry Campbell Black stated that policy is "the general principles by which a government is guided in its management of public affairs, or the legislature in its measures ... this term, as applied to a law, ordinance, or rule of law, denotes its general purpose or tendency considered as directed to the welfare or prosperity of the state community."

In essence, the policy is a position that once stated will affect the success of decisions that will be made in the future or the literature; it is also known that policy is a series of actions proposed by a person, group, or government in a particular environment by showing obstacles and opportunities for the implementation of the proposed policy to achieve specific goals.

To achieve the target correctly, the policy should be poured into the form of legislation, so that its existence will bind the community, and with such a frame of mind, the law can be formulated as a series of public policies in the form of legislative policies or formulation policies that bind the community in their efforts to achieve specific goals (Febriana et al., 2019).

Talking about legal policy cannot be separated from legal politics, which can be interpreted as a legal policy that will be implemented or implemented by a state government which includes: consistent implementation of existing legal provisions, legal development, which essentially is the renewal and creation of new legal provisions needed to meet the demands of community development, affirmation of the functions of law enforcement agencies or law enforcement and development of their members, as well as increasing public legal awareness according to the perception of the elite group of policymakers.

The penal policy is part of the crime prevention policy, in addition to the non-penal policy, where the crime prevention policy is a rational organization of crime prevention by the community or the rational effort of the community in overcoming crime, a rational organization of rational social reactions to crime.

Criminal law policy is how to properly formulate criminal law and provide guidance to legislators, applicable policies, and implementation of criminal law. Behavior that is considered deviant by criminal law involves criminal procedures. Punishment is the process of determining a person's behavior as punishable behavior, and the process ends with the formation of a law. The behavior will be subject to criminal sanctions (Nuryanto et al., 2019).

The penal policy is not merely a statutory technique that can be carried out in a normative and systematic-dogmatic juridical manner but also requires a factual juridical approach which can be in the form of a sociological, historical, comparative, and comprehensive approach from various other social disciplines with an integrated approach that is in line with social policy or national development policy.

As a criminal law umbrella for matters related to narcotics and psychotropic substances, in Law Number 35 of 2009, there is a particular chapter that regulates criminal provisions, which means that there are regulations regarding acts related to narcotics and psychotropic substances which prohibited (criminal acts) containing criminal law policies. However, it should be remembered that Law Number 35, the Year 2009, was born with the following objectives: 1) Guarantee the availability of Narcotics for the benefit of health services and the development of science and technology; 2) Prevent, protect, and save the Indonesian people from the abuse of Narcotics; 3) Eradicating illicit trafficking of narcotics and narcotic precursors, and 4) Guarantee the arrangement of medical and social rehabilitation efforts for Narcotics abusers and addicts.

In Law Number 35 of 2009, there are 3 (three) categories of narcotics abusers, namely abusers, addicts, and victims of narcotics abuse, each of which has a different meaning. Abusers are people who use narcotics without rights or are against the law. What is meant by narcotics addicts are people who use or abuse narcotics and are in a state of dependence on narcotics, both physically and psychologically? At the same time, what is meant by a narcotics abuse victim is someone who does not intentionally use narcotics because they were persuaded, tricked, cheated, forced, and threatened to use narcotics.

The dichotomy between addicts and narcotics/psychotropic abuse can determine between victims and perpetrators of narcotics/psychotropic crimes. Victims of narcotics abuse and perpetrators of narcotics/psychotropic crimes have fundamental differences in the application of legal substance and law enforcement carried out against victims of criminal acts or perpetrators of criminal acts.

The application of the law to victims of criminal acts and perpetrators of narcotics/psychotropic crimes has a very basic difference in the Protection of the fundamental rights of citizens as regulated in the constitution of the Indonesian

nation (UUD 1945) so that the law must be able to distinguish firmly and clearly before applying the substance law against victims of criminal acts or perpetrators of narcotics/psychotropic crimes. Applying different laws between victims of criminal acts and perpetrators of narcotics/psychotropic crimes will determine the law enforcement carried out against each victim and perpetrator of narcotics/psychotropic crimes, which will further determine the application of appropriate sanctions or rehabilitation for each. Narcotics and psychotropic cases determine rehabilitation for victims of narcotics/psychotropic crimes or criminal sanctions for perpetrators of narcotics/psychotropic crimes.

The regulation of addicts themselves in terminology in Law Number 35 of 2009 concerning Narcotics is contained in several parts of the substance which can be further described descriptively as follows:

- a. Article 1 number 13 of Law Number 35 of 2009 concerning Narcotics explains that narcotics addicts are people who use or abuse narcotics and are in a state of dependence on narcotics, both physically and psychologically.
- b. Article 1 number 16 of Law Number 35 of 2009 concerning Narcotics explains that medical rehabilitation is a process of integrated treatment activities to free addicts from narcotics dependence.
- c. Article 1 number 17 of Law Number 35 of 2009 concerning Narcotics explains that social rehabilitation is a process of integrated physical, mental, and social recovery activities so that former narcotics addicts can return to carrying out social functions in people's lives.
- d. Article 4 letter e of Law Number 35 of 2009 concerning Narcotics explains that the law on narcotics aims to ensure the regulation of medical and social rehabilitation efforts for narcotics abusers and addicts.
- e. Article 54 of Law Number 35 of 2009 concerning Narcotics explains that narcotics addicts and victims of narcotics abuse are required to undergo medical rehabilitation and social rehabilitation.
- f. Article 55, paragraph (1) of Law Number 35 of 2009 concerning Narcotics explains that parents or guardians of narcotics addicts who are not old enough are required to report to public health centers, hospitals, and designated medical rehabilitation and social rehabilitation institutions by the government to obtain treatment and treatment through medical rehabilitation and social rehabilitation.
- g. Article 55 paragraph (2) of Law Number 35 of 2009 concerning Narcotics explains that narcotics addicts who are old enough are required to report themselves or be reported by their families to public health centers, hospitals, and designated medical rehabilitation and social rehabilitation institutions. by the government to obtain treatment and treatment through medical rehabilitation and social rehabilitation.
- h. Article 56, paragraph (1) of Law Number 35 of 2009 concerning Narcotics explains that medical rehabilitation for narcotics addicts is carried out in

hospitals appointed by the minister.

- i. Article 56, paragraph (2) of Law Number 35 of 2009 concerning Narcotics explains that certain rehabilitation institutions organized by government agencies or the public can perform medical rehabilitation for narcotics addicts after obtaining ministerial approval.
- j. Article 57 of Law Number 35 of 2009 concerning Narcotics explains that, apart from medical treatment and rehabilitation, the healing of narcotics addicts can be carried out by government agencies or the community through religious and traditional approaches.
- k. Article 58 of Law Number 35 of 2009 concerning Narcotics explains that government agencies and the community carry out social rehabilitation of former narcotics addicts.
- l. Article 60, paragraph 2, letter e of Law Number 35 of 2009 concerning Narcotics explains that the government conducts guidance on all narcotics-related activities, including efforts to increase the capacity of medical rehabilitation institutions for narcotics addicts, both organized by the government and the community.
- m. Article 70, letter e of Law Number 35 of 2009 concerning Narcotics explains that "BNN (National Narcotics Agency) has the task of increasing the capacity of medical rehabilitation institutions and social rehabilitation of narcotics addicts, both organized by the government and the community.
- n. Article 103 of Law Number 35 of 2009 concerning Narcotics explains that judges who examine narcotics addict cases may:
 - 1). Decide to order the person concerned to undergo treatment and treatment through rehabilitation if the Narcotics Addict is proven guilty of committing a Narcotics crime; or
 - 2). Determine to order the person concerned to undergo treatment and treatment through rehabilitation if the Narcotics Addict is not proven guilty of committing a Narcotics crime.
 - 3). The period of undergoing treatment and treatment for Narcotics Addicts, as referred to in paragraph (1) letter a is calculated as the period of serving the sentence.
- o. Article 128, paragraph (1) of Law Number 35 of 2009 concerning Narcotics explains that parents or guardians of underage addicts who intentionally do not report are subject to a maximum imprisonment of six (6) months or a maximum fine of IDR. 1,000,000.00 (one million rupiah).
- p. Article 128 paragraph (2) of Law Number 35 of 2009 concerning Narcotics explains that narcotics addicts who are not old enough and have been reported by their parents or guardians are not criminally charged.
- q. Article 128 paragraph (3) of Law Number 35 of 2009 concerning Narcotics explains that narcotics addicts who are old enough to undergo medical rehabilitation two (2) times the treatment period of doctors in hospitals and

medical rehabilitation institutions appointed by the government are not prosecuted.

- r. Article 134, paragraph (1) of Law Number 35 of 2009 concerning Narcotics explains that narcotics addicts who are old enough and intentionally do not report themselves are subject to a maximum imprisonment of six (6) months or a maximum fine of IDR. 2,000,000.00 (two million rupiah).
- s. Article 134 paragraph (2) of Law Number 35 of 2009 concerning Narcotics explains that families of narcotics addicts who intentionally do not report narcotics addicts are sentenced to three (3) months or a maximum fine of IDR. 1,000,000.00 (one million rupiah).

Based on the regulation of Law Number 35 of 2009 concerning Narcotics, every addict who has good faith to report himself and participate in the rehabilitation program from the government will be freed from criminal sanctions. This is based on the fact that addicts who have the will to be free from narcotics dependence will substantially get legal Protection from the state, as long as the addict does not distribute narcotics.

Law Number 35 of 2009 concerning Narcotics philosophically recognizes and requires the Protection needed for narcotics addicts, even though in court decisions that occur in practice, rehabilitation given to narcotics addicts is considered a form of criminal sanctions. A rehabilitation which is included in the decision as a form of criminal sanction, descriptively describes the faults possessed by narcotics addicts, which further leave a bad record for the document of the life journey of narcotics addicts themselves, so that the Protection provided by Law Number 35 of 2009 concerning Narcotics has not considered an ideal form of Protection without leaving a trace of punishment for addicts.

For addicts physiologically and psychologically dependent on narcotics and psychotropics, it is necessary to research the types of narcotics and psychotropics generally regulated in the Indonesian legislative system so that they can understand the types of narcotics and psychotropics used by addicts can determine appropriate treatment and law enforcement for narcotics and psychotropic addicts following the nature and conditions of each narcotic and psychotropic case.

2. Decriminalization as a Concept of Protection for Narcotics Addicts as Victims

The Protection that can be given to narcotics and psychotropic addicts can only be done by objectively separating addicts as victims of narcotics and psychotropic crimes from addicts as perpetrators of narcotics and psychotropic crimes. Addicts who factually have two (2) different characteristics have resulted in different forms of law enforcement for narcotics and psychotropic addicts. Law enforcement against two (2) types of narcotics and psychotropic addicts will tremendously impact preventing and overcoming the problem of narcotics and psychotropic abuse in the community.

Law enforcement that is carried out appropriately and proportionally for narcotics and psychotropic addicts must be based on clear and firm legal constructions in dividing the dichotomy between narcotics and psychotropic addicts. Legal construction that is clear and firm in formulating the dichotomy of narcotics and psychotropic addicts must be based on a good (ideal) analysis (concept) that divides the dichotomy of narcotics and psychotropic addicts based on philosophical values, juridical values, and sociological values that apply when a process of formation (construction) law is carried out.

Formulating an ideal concept is considered a strategic step before formulating a law substantively. The ideal legal concept of the new paradigm will determine a legal policy direction that makes a positive contribution to formulating protection laws for narcotics and psychotropic addicts that can concretely solve the problem of narcotics and psychotropic abuse in society (Simangunsong, 2018).

The causal relationship between the concept of law and law enforcement is descriptive in that the ideal legal concept can determine the direction of criminal law policy in formulating narcotics and psychotropic laws and regulations for law enforcement for every person who abuses narcotics and psychotropic substances in society.

The ideal legal concept is a legal concept that provides objective and proportional Protection to narcotics and psychotropic addicts that occur in the community so that the ideal legal concept can concretely prevent and resolve narcotics and psychotropic abuse that occurs in the community. Therefore, the concept that provides legal Protection to narcotics and psychotropic addicts must be given a "name" to be distinguished from other existing legal concepts (Samsuria, 2022).

The concept that protects narcotics and psychotropic addicts are given the concept name "Protection of Narcotics and Psychotropic Addicts," or what is referred to as the "Perpenka" concept. the concept of Protection for Narcotics and Psychotropic Addicts (Perpenka) was taken to reflect the existence of a concept that provides Protection to narcotics and psychotropic addicts in the community.

Based on terminology considerations, the concept with the name "Protection of Narcotics and Psychotropic Addicts" (Perpenka) is composed of four (4) syllables, namely: the word "Protection," the word "addict," the word "Narcotics," and the word "Psychotropic" which are respectively each meaning of the syllables based on Kamus Besar Bahasa Indonesia can be interpreted as follows:

- a. The word "Protection" in the concept of "Protection of Narcotics and Psychotropic Addicts."

The word "Protection" in the concept of "Protection of Narcotics and Psychotropic Addicts" based on the Big Indonesian Dictionary is defined as a place of refuge; things (actions etc.) that protect.

The word "Protection" in the concept of "Protection of Narcotics and Psychotropic Addicts" is used to provide identity for the direction of the goal of the

concept, which is formed as a concept that protects something (in this case, Protection for narcotics and psychotropic addicts), so that the concept is formed concretely explain the various aspects (elements) that accompany the process of protecting narcotics and psychotropic addicts.

- b. The word "addicts" in the concept of "Protection of Narcotics and Psychotropic Addicts."

The word "addicts" in the concept of "Protection of Narcotics and Psychotropic Addicts" based on the Big Indonesian Dictionary is taken from the root word "opium," which is defined in the Big Indonesian Dictionary as a large tree, 4.5 m high, the wood is brittle; Dry yellowish-brown bitter sap extracted from *Papaver somniferum* fruit, can reduce pain and stimulate drowsiness and cause addiction for those who often use it; Thick black liquid that comes out of a smoked cigarette attached to the pipe; Figure out something you like.

The word "addict" in the concept of "Protection of Narcotics and Psychotropic Addicts" is used to refer to someone who fulfills one of the elements between "addiction" and "craving" for narcotics and psychotropic objects, so the concept does not only refer to someone who uses narcotics and psychotropic substances but refers to a person who uses narcotics and psychotropic substances accompanied by elements of "addiction" and "craving."

- c. The word "Narcotics" is in the concept of "Protection of Narcotics and Psychotropic Addicts."

The word "Narcotics" in the concept of "Protection of Narcotics and Psychotropic Addicts" based on the Big Indonesian Dictionary is defined as drugs to calm nerves, relieve pain, cause drowsiness, or stimulate (such as opium, marijuana).

- d. The word "Psychotropic" is in the concept of "Protection of Narcotics and Psychotropic Addicts."

The word "Psychotropics" in the concept of "Protection of Narcotics and Psychotropic Addicts" based on the Big Indonesian Dictionary is defined as anything that can affect the activity of the mind, such as opium, marijuana, drugs; Docs of substances or drugs, whether natural or synthetic that can cause characteristic changes in mental activity and behavior; drugs that can affect or change a person's speech or behavior.

The word "Narcotics and Psychotropics" in the concept of "Addicts Protection" is used to describe the object of Protection that must be given to narcotics and psychotropic addicts, in addition to being able to explain the object that is the cause of "addiction" and "craving" felt by addicts.

The concept of Protection for Narcotics Addicts must be formulated about the intent and meaning of the concept of Protection for Narcotics Addicts itself so that it can explain the intent and elements contained in providing Protection to narcotics addicts. Therefore, Protection for Narcotics and Psychotropic Addicts is etymologically defined as "Protection that must be given to every person who suffers from the effects and dependence of narcotics and psychotropics and cannot escape

from the effects and dependence even though he wishes to do so.

The element of "protection" in the concept of Protection for Narcotics Addicts means that Protection must be given to every narcotic and psychotropic addict who fulfills the element of being a "victim" of narcotics and psychotropic crimes. The Protection given to narcotics and psychotropic addicts as victims of criminal acts must be carried out actively in the sense that the state and any accompanying institutions must immediately identify narcotics and psychotropic addicts as victims or narcotics and psychotropic addicts as perpetrators of narcotics and psychotropic crimes, so that can determine the provision of legal Protection or sanctions to narcotics addicts.

The provision of Protection to narcotics addicts must have an active and aggressive nature in the sense that Protection must be given to every addict as a victim of narcotics and psychotropics, whether the Protection is given based on a request or not based on a request, but the Protection provided is based on the law to addicts as victims of narcotics crimes.

Considering the physical and psychological conditions of a narcotics addict as explained in the introduction section, Protection in the form of legal proceedings for each narcotics addict means that the addict is not made a suspect or defendant in the legal process. Narcotics and psychotropic addicts can only be used as witnesses to a narcotics and psychotropic crime case so that no addict who is a victim of a crime gets a criminal decision or a rehabilitation decision as a criminal sanction. Thus, the purpose of the birth of Law Number 35 of 2009 against narcotics addicts can be achieved, and there is no more extended conflict between the provisions, especially regarding narcotics addicts in Law Number 35 of 2009.

D. CONCLUSION

Criminal policies against narcotics abuse in Indonesia must be based on the qualifications of narcotic addicts. Narcotics addicts can do a dichotomy between addicts as perpetrators of criminal acts and addicts as victims of criminal acts. Protection must be given to addicts as victims of narcotics crimes. Protection and guidance can be given to addicts as perpetrators of narcotics crimes. Indonesia's criminal policy equates addicts as victims and addicts as perpetrators of narcotics crimes.

The formula for decriminalization as a form of legal certainty for narcotics addicts can be realized as long as decriminalization can be carried out by identifying addicts as victims and addicts as perpetrators of narcotics crimes. The element of will possessed by an addict is a determining element of an addict as a victim or as a perpetrator of a narcotics crime. The Protection of Narcotics Addicts concept requires optimal Protection for addicts as victims of narcotics crimes. Protection is given to addicts from the effects of narcotics dependence. Protection is given to addicts from the binding narcotics system.

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