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Self-Reporting as a Crime: Article 134 of the Narcotics Law and the Rehabilitative Purpose of Punishment in Indonesia

Khoirul Anwar Husein[1*]

[1] Master of Law Program, Universitas Islam Indonesia, Yogyakarta, Indonesia
[*]Corresponding author email: khoirulanwarhusein@gmail.com

Abstract

Indonesian criminal law increasingly treats rehabilitation and social reintegration as purposes of punishment, as Article 51 of the National Criminal Code shows. The Narcotics Law (Law No 35 of 2009) had already adopted this orientation by requiring medical and social rehabilitation for addicts and victims of abuse. Yet Article 55(2) obliges adult addicts to report themselves or be reported, and Article 134 criminalises intentional failure to do so; since Law No 1 of 2026 the penalty is a fine of up to category II. This article asks whether that sanction is consistent with the rehabilitative purpose of punishment. It is normative legal research using statutory and conceptual approaches, based on primary legal materials and on literature on theories of punishment and the neuroscience of addiction; no empirical data were gathered. Tested against each of the four purposes in Article 51, Article 134 serves none of them convincingly. It treats a person whom the statute elsewhere calls a patient as an offender, may add fear to the stigma that already deters reporting, and presumes a capacity to self-report that addiction may impair, a premise that is debated. Article 128(3), which spares addicts in treatment from prosecution, narrows but does not remove the inconsistency. The article recommends that the legislature repeal Article 134 and encourage reporting through non-penal incentives and guarantees.

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Keywords

Punishment; Rehabilitation; Reintegration; Addiction; Decriminalisation

Introduction

Indonesian criminal law has shifted in how it states the purposes of punishment. Law No 1 of 2023 on the Criminal Code (National Criminal Code), in force since 2 January 2026, sets out those purposes in Article 51: to prevent offences by upholding legal norms for the protection of society; to resocialise convicted persons through

guidance and training so that they become good and useful; to resolve conflicts caused by offences, restore balance and bring a sense of security and peace; and to arouse remorse and release the convicted person from guilt.[1] Punishment is therefore no longer only retributive. It is also preventive and rehabilitative, and the offender is treated as a subject who can still be repaired and returned to social life. The colonial-era code that the new code replaces took effect in the Netherlands Indies in 1918 and was retained after independence by Law No 1 of 1946; it contained no provision stating the purposes of punishment, which therefore had to be drawn from doctrine.

The rehabilitative idea is old. Hiariej attributes to Thomas Aquinas the distinction between punishment as punishment (*poenae ut poenae*) and punishment as medicine (*poenae ut medicina*).[2] Arief, citing Bassiouni, states that criminal law protects social interests such as public order, protection from harm, resocialisation of offenders and basic values of social justice and human dignity, and that criminal sanctions must be proportionate to those interests and value-oriented, not merely pragmatic.[3][4] Both attributions are taken from these secondary works and have not been checked against Aquinas's or Bassiouni's own texts, so they are used here as the Indonesian doctrine's account of the rehabilitative idea, not as a reading of the original authors.

Law No 35 of 2009 on Narcotics (Narcotics Law) adopted the rehabilitative approach before the National Criminal Code did. Article 4(d) states that the law aims to guarantee medical and social rehabilitation for abusers and addicts, Chapter IX regulates treatment and rehabilitation, and Article 54 requires addicts and victims of abuse to undergo both forms of rehabilitation.[5][6]

One pair of provisions sits uneasily with this approach. Article 55(2) provides that an addict who is of age must report himself or herself, or be reported by family, to a community health centre, hospital or designated rehabilitation institution in order to receive treatment through medical and social rehabilitation.[7] Article 134(1) then provides that an adult addict who intentionally fails to report as required by Article 55(2) is punished by confinement for up to six months or a fine of up to IDR 2,000,000, and Article 134(2) punishes the addict's family for the same omission with

[1] Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana [Law No 1 of 2023 on the Criminal Code], art 51.
[2] Eddy OS Hiariej, *Prinsip-Prinsip Hukum Pidana Edisi Penyesuaian KUHP Nasional* (Depok: Rajawali Pers, 2024) at 40.
[3] Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana* (Jakarta: Prenada Media, 2016) at 39.
[4] Ahmad Bahieh, "Prinsip Individualisasi Pidana dalam Pembaharuan Hukum Pidana Materiel Indonesia" (2004) 3:4 *Sosio-Religia* 4.
[5] Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika [Law No 35 of 2009 on Narcotics], Lembaran Negara Republik Indonesia Tahun 2009 Nomor 143, art 4(d).
[6] *Ibid*, art 54.
[7] *Ibid*, art 55(2).

confinement for up to three months or a fine of up to IDR 1,000,000.[8] Law No 1 of 2026 on Criminal Adjustment, which adapted the penalties of laws outside the Criminal Code to the new code, replaced both penalties: Annex II provides for a fine of up to category II only, so that confinement is no longer available.[9] Under Article 79 of the Criminal Code, category II is IDR 10,000,000.[10] The English renderings of the provisions in this article are the author's own translations of the official Indonesian text.

This study therefore asks: is the criminal sanction in Article 134, read with Article 55(2), consistent with the rehabilitative purpose of punishment adopted by the Narcotics Law and the National Criminal Code? Three sub-questions structure the answer. Which of the purposes in Article 51 can the sanction serve? What does the science of addiction, and the debate about it, imply for the premise that an addict can and will report? And how does Article 128, which exempts some addicts from prosecution, change the analysis? The question matters because the provision punishes the very people the statute elsewhere says must be treated, and it may discourage the self-reporting that Article 55(2) seeks to promote. The purpose of the article is to answer these questions and, if the sanction proves inconsistent with the rehabilitative paradigm, to propose how the law should be changed.

Position in the Literature

Indonesian studies of the reporting duty are few and mostly address parents. Manalu, Idham and Erniyanti examine the legal consequences for parents who do not report an addict to the authorities and the efforts of law enforcement to raise parents' awareness, using library and field research in Batam; their conclusions restate the sanction in Article 128(1) and describe repressive, preventive and persuasive measures.[11] Geraldine examines the rehabilitation of addicts and victims of abuse during the judicial process, distinguishes it from rehabilitation through compulsory reporting, and observes that the Narcotics Law does not itself regulate rehabilitation during that process.[12] Neither study asks whether the criminal sanction on the adult addict's own failure to report in Article 134 fits the purposes of punishment. Comparative work addresses the wider question of whether criminal penalties for drug use are needed: Hughes and Stevens, studying Portugal,

[8] *Ibid*, art 134.

[9] Undang-Undang Nomor 1 Tahun 2026 tentang Penyesuaian Pidana [Law No 1 of 2026 on Criminal Adjustment], Annex II.

[10] Criminal Code, *supra* note 1, art 79.

[11] Andry Yosep Manalu, Idham Idham & Erniyanti Erniyanti, "Analisis Teori Hukum Positif dan Teori Sistem Hukum terhadap Perbuatan Tidak Melaporkan Pelaku Penyalahgunaan Narkotika" (2022) 1:2 *Kajian Ilmiah Hukum dan Kenegaraan* 79, DOI: <10.35912/kihan.v1i2.1913>.

[12] Agatha Geraldine, "Rehabilitasi Pecandu Narkotika dan Korban Penyalahgunaan Narkotika Selama Proses Peradilan" (2022) 5:5 *Jurist-Diction* 1669, DOI: <10.20473/jd.v5i5.38431>.

which decriminalised the use and possession of all illicit drugs on 1 July 2001, conclude that decriminalisation did not lead to major increases in drug use.[13] On the science, the brain-disease model of addiction is stated by Volkow and her co-authors and contested by others, a debate taken up below.[14][15][16] To the author's knowledge, none of the sources consulted tests Article 134 against each purpose in Article 51 of the new Criminal Code, takes account of the adjustment of its penalty by Law No 1 of 2026, or reads it together with the non-prosecution rule in Article 128(3). This article does so.

Research Method

This is normative (doctrinal) legal research using a statutory approach and a conceptual approach. The statutory approach examines the Narcotics Law (Articles 4, 54, 55, 103, 127, 128 and 134), as last amended by Law No 1 of 2026 so far as its penalties are concerned, and Articles 51 and 79 of the National Criminal Code. The conceptual approach uses the theories of the purposes of punishment (absolute, relative, combined and rehabilitative theories) to test whether Article 134 fits the purposes the law professes.

The primary legal materials are the Narcotics Law, the National Criminal Code, Law No 1 of 2026 on Criminal Adjustment, Government Regulation No 25 of 2011 on compulsory reporting of narcotics addicts and Law No 22 of 2022 on Corrections. The text of the Narcotics Law was read in the official Indonesian version of 2009 and compared with the penalty adjustments in Annex II of Law No 1 of 2026. The secondary materials are Indonesian criminal-law textbooks, studies of the reporting duty and of rehabilitation, and the scientific literature on addiction. For the latter, the review articles by Volkow and her co-authors on which the original manuscript relied were read together with two prominent critiques of the brain-disease model, by Satel and Lilienfeld and by Hall, Carter and Forlini, so that the argument is tested against the debate and not only against one side. Materials were collected by library research and documentary study and analysed qualitatively: the text of Article 134 was compared with the purposes expressed in Articles 4(d), 54, 103, 127 and 128 of the Narcotics Law and tested, purpose by purpose, against Article 51 of the National

[13] Caitlin Elizabeth Hughes & Alex Stevens, "What Can We Learn From The Portuguese Decriminalization of Illicit Drugs?" (2010) 50:6 *British Journal of Criminology* 999, DOI: <10.1093/bjc/azq038>.

[14] Nora D Volkow, George F Koob & A Thomas McLellan, "Neurobiologic Advances from the Brain Disease Model of Addiction" (2016) 374:4 *New England Journal of Medicine* 363, DOI: <10.1056/NEJMra1511480>.

[15] Sally Satel & Scott O Lilienfeld, "Addiction and the Brain-Disease Fallacy" (2014) 4 *Frontiers in Psychiatry* 141, DOI: <10.3389/fpsyt.2013.00141>.

[16] Wayne Hall, Adrian Carter & Cynthia Forlini, "The Brain Disease Model of Addiction: Is It Supported by the Evidence and Has It Delivered on Its Promises?" (2015) 2:1 *The Lancet Psychiatry* 105, DOI: <10.1016/S2215-0366(14)00126-6>.

Criminal Code. No court decisions, Supreme Court circulars or Constitutional Court decisions were analysed, and no empirical data on self-reporting or on prosecutions under Article 134 were collected.

Results and Discussion

Purposes of Punishment: From Retribution to Rehabilitation

Theories of punishment are commonly grouped as absolute, relative and combined, with later additions such as deterrence, education, rehabilitation, social control and restorative justice. Under the absolute theory, punishment is retribution for a wrong done to protected rights and interests, and attention is on the act, not on why the crime happened. The state may impose it simply because the offender deserves it. The relative theory looks forward and aims to prevent crime. Von Feuerbach's version has two forms: general prevention, in which punishment of one person deters others through psychological coercion, and special prevention, in which punishment stops the offender from offending again. Van Hamel and von Liszt added that special prevention aims to remove the criminal tendency in the offender or, where possible, to improve the offender.[17][18][19][20] These theories are known here through Indonesian textbooks, and the statements about individual theorists are those of the textbooks.

At the international level the Tokyo Rules encourage non-custodial measures as alternatives to imprisonment and the involvement of the community in the treatment of offenders.[21] In the Indonesian literature the Rules are described as accepting restriction of liberty only where justified by public safety, crime prevention, just retribution and deterrence, and as treating the reintegration of offenders into society as a main objective of the criminal justice system.[22] The rehabilitation theory, reflected in the Narcotics Law and the National Criminal Code, goes further. It treats punishment as a means of restoring a person's social function, not only of repaying or deterring. In corrections, Indonesia adopted the idea of social reintegration in Law No 12 of 1995, which has since been replaced by

[17] Hiariej, *supra* note 2 at 34–49.
[18] Adam Chazawi, *Pelajaran Hukum Pidana Bagian I* (Jakarta: PT Raja Grafindo Persada, 2007) at 157.
[19] Hiariej, *supra* note 2 at 35.
[20] *Ibid* at 37–38.
[21] United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules), GA Res 45/110, UNGAOR, 45th Sess, UN Doc A/RES/45/110 (1990).
[22] Topo Santoso, *Pokok-Pokok Hukum Pidana Sesuai KUHP Nasional & UU Penyesuaian Pidana* (Depok: Rajawali Pers, 2026) at 314.

Law No 22 of 2022 on Corrections, and it has been described as a response to the limits of imprisonment.[23][24]

Provisions of the Narcotics Law that Express a Rehabilitative Orientation

Article 54 states that narcotics addicts and victims of narcotics abuse must undergo medical and social rehabilitation.[25] Article 103(1) allows a judge examining a case against an addict to order treatment through rehabilitation, either as part of the verdict if the addict is found guilty, or by a separate order if the addict is found not guilty. The power is permissive (the judge *may* order rehabilitation), not mandatory.[26] Article 127(2) and (3) tie these provisions together: in deciding cases against abusers, the judge must take Articles 54, 55 and 103 into account, and where the abuser is proved to be a victim of abuse, rehabilitation is mandatory. Article 127(1), however, still punishes the abuser, with imprisonment of up to four, two or one years according to the narcotic involved.[27] The statute thus treats the addict first as someone needing treatment, and punishment in this field is meant to work as medicine, in line with the relative, rehabilitative and social-control theories of punishment, although it keeps a criminal sanction in reserve.

Article 128 is directly relevant to the reporting duty and qualifies it in three ways. Article 128(1) punishes the parent or guardian of an addict who is not yet of age and who intentionally fails to report, with confinement of up to six months or a fine of up to IDR 1,000,000 (now a fine of up to category II).[28][29] Article 128(2) provides that an underage addict who has been reported by the parent or guardian is not prosecuted. Article 128(3) provides that an addict who is of age, as referred to in Article 55(2), and who is undergoing medical rehabilitation for two periods of treatment by a doctor at a hospital or medical rehabilitation institution designated by the government, is not prosecuted.[30] The legislature has therefore itself provided that the addict who enters treatment is to be spared prosecution. Article 128(3) is conditional on being in treatment, not on reporting as such, and it applies to prosecution for the addict's own offences; it does not state in terms that it bars prosecution under Article 134 for the earlier omission to report. Its effect on Article

[23] Barda Nawawi Arief, *Kapita Selekta Hukum Pidana*, 3rd ed (Bandung: PT Citra Aditya Bakti, 2013) at 272.
[24] Undang-Undang Nomor 22 Tahun 2022 tentang Pemasyarakatan [Law No 22 of 2022 on Corrections].
[25] Narcotics Law, *supra* note 5, art 54.
[26] *Ibid*, art 103(1).
[27] *Ibid*, art 127.
[28] *Ibid*, art 128(1).
[29] Law on Criminal Adjustment, *supra* note 9, Annex II.
[30] Narcotics Law, *supra* note 5, art 128(2)–(3).

134 is nevertheless clear in practice: the sanction in Article 134 can reach only an adult addict who has neither reported nor entered treatment, and the legislature has said, through Article 128, that treatment is what it wants. Government Regulation No 25 of 2011 organises the reporting itself through designated receiving institutions.[31]

Table 1. Provisions compared in this study

Provision	Content (summary)	Orientation
Art 4(d), Narcotics Law	Guarantees medical and social rehabilitation for abusers and addicts	Rehabilitative
Art 54	Addicts and victims of abuse must undergo medical and social rehabilitation	Rehabilitative
Art 55(2)	Adult addicts must report themselves, or be reported by family, to receive treatment	Mixed: aims at treatment but creates a duty
Art 103(1)	Judge may (not must) order rehabilitation, whether or not the addict is found guilty	Rehabilitative, permissive
Art 127(2)–(3)	Judge must consider Arts 54, 55 and 103; a proven victim of abuse must be rehabilitated	Rehabilitative
Art 128(2)–(3)	Underage addict reported by parents, and adult addict in medical rehabilitation, are not prosecuted	Rehabilitative
Art 134(1)–(2)	Intentional failure of an adult addict (or the family) to report: as enacted, confinement of up to six (three) months or a fine; since Law 1/2026, a fine of up to category II	Punitive
Art 51, National Criminal Code	Prevention, resocialisation, resolution of conflict and restoration of balance, remorse	Mixed, with rehabilitative elements

Source: compiled by the author from Law No 35 of 2009, Law No 1 of 2023 and Law No 1 of 2026.

The Tension between Articles 55(2) and 134 and the Rehabilitative Paradigm

Read in isolation, Article 55(2) looks supportive of treatment. It tries to bring addicts into care before dependence deepens. The difficulty is Article 134, which attaches a criminal sanction to failure to report. An addict who has not reported is thereby treated as an offender, although Articles 54 and 127 treat the same person as a patient and a victim. The same status is thus handled with treatment in one place and punishment in another. That the penalty is now a fine only does not remove the contradiction, because what matters for the paradigm is that the omission is an offence, with its consequences of investigation, prosecution and conviction, not the amount of the sanction.

The test of the provision is whether the sanction can serve any of the four purposes in Article 51 of the National Criminal Code. Table 2 takes each purpose in turn and states what Article 134 would have to achieve.[32] The first purpose, prevention of offences by upholding legal norms for the protection of society, is the only one for

[31] Peraturan Pemerintah Nomor 25 Tahun 2011 tentang Pelaksanaan Wajib Lapor Pecandu Narkotika [Government Regulation No 25 of 2011 on the Implementation of Compulsory Reporting of Narcotics Addicts].
[32] Criminal Code, *supra* note 1, art 51.

which the provision has an argument, namely general deterrence: the threat of a fine may prompt addicts, and their families, to report. That argument rests on two assumptions that are not shown: that addicts know of the duty and of the sanction, and that they are able to act on that knowledge. The omission itself harms no one else, and the underlying use of narcotics is already the subject of Article 127. On the second purpose, resocialisation through guidance and training, a fine provides neither; the path that does is rehabilitation under Articles 54 and 103, which a conviction does not provide and may delay. On the third, resolution of conflict and restoration of balance, there is no victim and no conflict that the sanction resolves; prosecuting a person who has not sought help creates a conflict between the individual and the state. On the fourth, arousing remorse and releasing the person from guilt, remorse for not reporting presupposes a person who understood the duty and could have complied, which is the very capacity in question, and a fine is unlikely to arouse the kind of recognition that treatment requires. Article 128(3), by sparing the addict in treatment, confirms that the legislature itself prefers treatment to prosecution.

Table 2. Article 134 tested against the purposes of punishment in Article 51

Purpose in Article 51	**What Article 134 would have to achieve**	**Assessment**
Prevent offences by upholding norms for the protection of society	Deter failure to report so that more addicts enter treatment	Arguable only as general deterrence; depends on untested assumptions about knowledge and capacity; no third party is harmed by the omission
Resocialise through guidance and training	Provide or lead to guidance and training that restore the person's social functioning	Not achieved: a fine provides none; rehabilitation under Arts 54 and 103 does
Resolve conflict, restore balance, bring security and peace	Resolve a conflict caused by the omission	Not achieved: there is no victim or conflict; prosecution creates one
Arouse remorse and release from guilt	Make the person recognise a wrong that he or she could have avoided	Doubtful: presupposes the capacity to report that addiction may impair; Art 128(3) itself prefers treatment

Source: the author's analysis of Article 51, National Criminal Code, and Article 134, Narcotics Law.

The Neuroscience of Addiction and the Capacity to Report

The premise that an addict may be unable to report draws on the brain-disease model of addiction as stated by Volkow and her co-authors. Neuroscience shows how drugs can alter brain areas needed for social interaction and promote compulsive use. Addiction is described as a recurring three-stage cycle: binge and intoxication, withdrawal and negative affect, and preoccupation and

anticipation.[3334] Three brain regions are involved. The basal ganglia govern reward, and repeated overstimulation by drugs leaves the user unable to find pleasure elsewhere. The extended amygdala is involved in stress, discomfort and anxiety, which push the user to take the drug again for relief. The prefrontal cortex governs decision-making, impulse control, planning, emotional regulation and social cognition. It develops last, which is why adolescents are especially vulnerable.[3536]

From this it can be inferred that an addict will find it hard to stop alone and hard to decide what to do about the addiction, so that self-reporting is unlikely. Fear of stigma and labelling, and doubts about whether law enforcement and rehabilitation institutions are ready to receive someone who reports, add further obstacles. This is a reasoned inference, not a finding of the cited sources: the brain-disease model describes impaired control as a tendency and does not by itself show that an addict cannot report. The model is also contested. Satel and Lilienfeld argue that it wrongly treats the brain as the most important level for understanding and treating addiction and that it obscures choice, responsiveness to incentives and the reasons for which people use drugs.[37] Hall, Carter and Forlini argue that the model is insufficiently supported by animal and neuroimaging evidence, has not contributed to more effective treatments, and has had a modest effect on public policy.[38] The critiques cut both ways. If addicts retain choice and respond to incentives, a sanction might motivate reporting. But the argument against Article 134 does not depend on the stronger form of the brain-disease model. Even if control is only partly impaired, a criminal sanction on the failure to seek help adds to the stigma and fear that deter reporting, is not needed to secure treatment where non-prosecution on entering treatment is already offered by Article 128, and sits badly with the purposes in Article 51. If control is more impaired than the critics allow, the sanction is also unjust. The conclusion holds on either view of the science, with greater force on the first.

The self-reporting rule may also be practically ineffective, because few people with full awareness of their dependence would report themselves under threat of prosecution. That would make Articles 55(2) and 134 ineffective as well as inconsistent with the rehabilitative paradigm. This is an empirical claim, and this

[33] Nora D Volkow, Michael Michaelides & Ruben Baler, "The Neuroscience of Drug Reward and Addiction" (2019) 99:4 *Physiological Reviews* 2115, DOI: <10.1152/physrev.00014.2018>.
[34] Volkow, Koob & McLellan, *supra* note 14.
[35] Volkow, Michaelides & Baler, *supra* note 33.
[36] Volkow, Koob & McLellan, *supra* note 14.
[37] Satel & Lilienfeld, *supra* note 15.
[38] Hall, Carter & Forlini, *supra* note 16.

study collected no data on the number of reports under Article 55(2) or of prosecutions under Article 134 and found none in the sources consulted; it is therefore offered as an inference and as a question for research. The only related indication is indirect. In their study of the parallel duty of parents under Article 128(1), Manalu, Idham and Erniyanti state in their introduction, citing another study, that none of the narcotics cases handled in Batam originated from a report by the offender's parents.[39] That statement concerns parents, not adult addicts, and one city, so it cannot be generalised.

Comparison with Earlier Research

The analysis extends the existing Indonesian work in one direction and agrees with the comparative work in another. Manalu, Idham and Erniyanti and Geraldine treat the reporting regime as given and ask how it is applied or how rehabilitation is organised around it;[40][41] this article asks whether the criminal sanction that backs the duty can be justified by the purposes of punishment. Their emphasis on law enforcement and on rehabilitation during the judicial process fits the finding here that the statute's working mechanism is treatment and non-prosecution, not punishment of the omission. The Portuguese experience described by Hughes and Stevens, in which decriminalising use and possession did not lead to major increases in drug use, suggests that removing criminal liability from addicts need not undermine the control of drug use, although Portugal's regime concerns possession and use and not a reporting duty, and its results cannot be transferred to Indonesia without further study.[42] The debate between Volkow and her co-authors and their critics shows that the case against Article 134 should not be built on one account of addiction alone, and the argument above is accordingly made to hold under both.[43][44][45]

Assessment

The strongest argument for keeping Article 134 is that a reporting duty with a sanction may push people into treatment who would not otherwise seek it. There are three replies. First, the sanction undermines its own aim. It threatens the person the statute elsewhere calls a patient, adds fear of criminal consequences to the stigma that already deters reporting, and reaches only those who can be identified

[39] Manalu, Idham & Erniyanti, *supra* note 11.
[40] *Ibid*.
[41] Geraldine, *supra* note 12.
[42] Hughes & Stevens, *supra* note 13.
[43] Volkow, Koob & McLellan, *supra* note 14.
[44] Satel & Lilienfeld, *supra* note 15.
[45] Hall, Carter & Forlini, *supra* note 16.

as addicts and who intentionally failed to report. Second, the statute already contains a better incentive, the non-prosecution of the addict who enters treatment under Article 128, which pulls toward treatment without punishing the omission. Third, the argument does not rest on whether addicts are free to choose. Even if they are, a sanction that works against recovery sits badly with Article 51.

Conclusion

The Narcotics Law adopted a rehabilitative approach to addicts through Articles 4(d), 54, 103, 127 and 128, and the National Criminal Code now states rehabilitation and reintegration among the purposes of punishment. Article 134, which punishes an adult addict's intentional failure to report under Article 55(2), is inconsistent with that approach. Tested against Article 51, it is defensible at most as general deterrence, on untested assumptions; it serves neither resocialisation, nor the resolution of conflict, nor the arousal of remorse. It treats as an offender a person whom the statute elsewhere treats as a patient and victim, and it relies on a capacity to self-report that addiction may impair. Article 128(3) narrows the contradiction by sparing the addict in treatment, but it confirms rather than removes it.

The study makes four recommendations. First, the legislature should repeal Article 134(1) and (2), which no longer carry confinement after Law No 1 of 2026 but still make failure to seek help an offence. Second, Article 55 should be kept as an entitlement and an invitation, not as a duty enforced by criminal law, and the reporting that remains should be encouraged by family and community. Third, the protection in Article 128(2) and (3) should be extended in the regulation of reporting to every addict who reports or is reported, together with guarantees that the report will be used for assessment and treatment and not for prosecution; Government Regulation No 25 of 2011 is the instrument in which such guarantees can be placed. Fourth, the National Narcotics Board and the designated reporting institutions should publish data on reports received and prosecutions under Article 134, so that the effect of the duty can be tested.[46] The study has limits. It is a normative analysis without field data; it does not assess the quality, capacity or accessibility of rehabilitation services, on which the success of any non-penal model depends; it did not examine court decisions or implementing circulars; and the scientific literature on addiction was read selectively, in the manner described in the method. Empirical research on reporting and prosecution practice is the next step.

[46] Government Regulation 25/2011, *supra* note 31.

Ethics and Data Availability

This is normative legal research. It did not involve human participants or personal data, so ethical approval was not required. The legal materials used are listed in the References and are publicly available.

Use of Generative AI

Generative AI was used only to improve the language of this article (grammar, clarity and style). The authors reviewed the output and are responsible for the content of the article.

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