

Perspective of Punishment Goals for Narcotics Addicts in Health Aspect of Medical Rehabilitation

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ABSTRACT

Drug addiction has long been a serious problem in various countries. This is also exacerbated by the development of technology that is utilized by criminals in launching their actions including in the criminal act of drug trafficking which has an impact on the number of drug abusers in Indonesia. Drug users or addicts can essentially be said to be sick people so it is very unwise if in the implementation of the punishment to mix sick people (drug addicts) with other criminal offenders. The regulations in Law No.35 of 2009 concerning Narcotics contain several interpretations in the implementation of law enforcement, especially for narcotics abusers and narcotics addicts, where most of the law enforcement efforts in i tend to bring them into the judicial area, the implementation of rehabilitation carried out still raises many obstacles which result in efforts to fulfill the rights of narcotics users not being maximized. However, in fact, the regulations used as the basis for providing rehabilitation still have shortcomings both in terms of substance and in terms of implementation by law enforcers and related institutions appointed by the government. This causes the main purpose of imposing rehabilitation not to be properly achieved as one of the objectives of punishment. The research method used is normative juridical. The process of making this journal plays an important role in determining the rehabilitation of narcotics addicts. The formulation of the problem to be discussed, namely: 1) How is the legal review of narcotics addicts in the perspective of the purpose of punishment, 2) How are medical rehabilitation efforts against narcotics addicts.

Keywords: Rehabilitation, Medical, Addicts, Narcotics, Punishment

INTRODUCTION

Indonesia's national development aims to realize the whole Indonesian human being and the whole Indonesian society which is just, prosperous, prosperous and peaceful based on Pancasila and the 1945 Constitution. In order to realize a prosperous Indonesian society, it is necessary to continuously increase efforts in the field of treatment and health services including the availability of drugs as medicine, in addition to efforts to develop science including research, development, education, and teaching.

In accordance with the objectives of National development in accordance with the mandate of Pancasila and the 1945 Constitution to realize a just, prosperous and prosperous Indonesian society, it is necessary to establish a legal regulation embodied in a Law which basically functions to provide protection for human interests, so that the law must be upheld in order to create an orderly and peaceful society. Likewise for drug addicts, the law is also obliged to be given and enforced in accordance with the applicable provisions in Indonesia so as to uphold justice for the sake of upholding the rule of law without exception in the action of illicit drug trafficking that often occurs in various regions of Indonesia. Therefore, in order for the use of narcotics to provide benefits for the lives of mankind, its circulation must be strictly monitored as stipulated in Law Number 35 of

2009 concerning Narcotics (BNN, 2016).

Narcotics are substances or drugs derived from plants or non-plants, both synthetic and semisynthetic that can cause a decrease or change in consciousness, loss of taste, reduce and eliminate pain, and cause dependence (Pramestutie & Silviana, 2016). Similarly, psychotropic drugs are substances or drugs, both natural and synthetic, not narcotics, which have psychoactive properties through selective effects on the central nervous system that cause typical changes in mental activity and behavior (*Undang-Undang No 5 Tahun 1997 Tentang Narkotika Pasal 1*, 1997). Then Narcotics are substances or drugs derived from plants or not plants, both synthetic and semisynthetic, which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can cause dependence, which is distinguished into groups as attached to this law (*Undang-Undang No. 35 Tentang Narkotika Pasal 1 Tahun 2009*, 2009).

The definition of narcotics is explained in Article 1 number 1 of Law Number 35 of 2009 concerning Narcotics, namely: narcotics are substances or drugs derived from plants or non-plants, both synthetic and semisynthetic, which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can cause dependence, which are divided into groups as attached to this Law (Soedjono, 2000).

Narcotics are substances or drugs that are very useful and necessary for the treatment of certain diseases. However, if misused or used not in accordance with treatment standards, it can cause very detrimental consequences for individuals or society, especially the younger generation. This will be more detrimental if it is accompanied by addiction and illicit drug trafficking which can cause greater harm to the life and cultural values of the nation which will ultimately weaken national resilience (Nasution, 2014).

Various policies were born from the government to prevent, overcome, treat and eradicate narcotics itself, as well as various laws and regulations that have been born, including the treatment of narcotics addicts and abusers. Narcotics addicts and victims of narcotics addicts must undergo medical rehabilitation and social rehabilitation (*Pasal 54 Undang-Undang Republik Indonesia Nomor 35 Tahun 2009 Tentang Narkotika*, 2009).

Rehabilitation of drug addicts is a treatment process to free addicts from dependence, and the period of undergoing rehabilitation is counted as a period of serving a sentence. Based on Law Number 35 of 2009 concerning narcotics, which is a replacement for Law Number 22 of 1997 concerning Narcotics, there are at least two types of rehabilitation, namely medical rehabilitation and social rehabilitation.

Rehabilitation is an effort to restore and restore the condition of former Naza abusers /

dependents back to health in the sense of physical, psychological, social and spiritual / religious health (faith). With this healthy condition, it is expected that they will be able to function reasonably in their daily lives at home, at school/college, at work and in their social environment.

The basic idea of rehabilitation policy is that the need for rehabilitation is a basic right for all citizens as recognized and protected in national human rights instruments. The influence of the classical school of thought of criminology states that individuals have human rights including the right to life and freedom. Humans have their wits accompanied by free will to make choices, but cannot be separated from environmental factors (Atmasasmita, 2007).

Head of BNN, Drs. Heru Winarko, emphasized that drug abusers need to be handled proportionally by being given access to rehabilitation. For this reason, BNN hopes that drug rehabilitation centers in the regions can be increased. Dirjan Pas Kemenkumham RI, Sri Puguh Utami also agreed that the perception of handling drugs must be the same so that addicts do not necessarily end up in prison, because in fact, drug cases have experienced a significant spike (*Humas BNN: Penanganan Penyalahguna Narkoba Harus Proporsional*, n.d.).

Rehabilitation and drug addicts, with the aim of curing the sick condition of drug dependence on addicts so that addicts recover from drug disease / dependence.

The punishment of drug addicts has several objectives. One of them is to provide a deterrent effect so that the perpetrator does not repeat his actions. In addition, punishment also aims to protect the public from the dangers of drug addiction and provide opportunities for offenders to receive rehabilitation. Punishment is also expected to have a preventive effect, preventing others from committing the same act. However, in the context of drug addicts, there is also a view that addicts should be seen as sick people who need rehabilitation, not just punishment.

Drug addicts are *self-victimizing victims* because drug addicts suffer from drug dependence syndrome as a result of their own drug abuse. The way that is considered appropriate to cure this dependence is by rehabilitating the victims of drug addiction. Because rehabilitation can release drug dependence until they can enjoy a free life without drugs (Martono, n.d.).

METHODS

The method used in this research is a normative juridical approach. The normative juridical approach (doctrinaire) is an approach by using literature or document studies and the opinions of experts related to the Law. No. 35 of 2009 concerning Narcotics. Researchers will use literature data as secondary data.

DISCUSSION

A. Legal Review of Narcotics Addicts in the Perspective of the Purpose of Punishment

Law enforcement against crime in Indonesia, especially in punishment, should refer to the norm approach that punishes criminals so that it can create a deterrent effect. The existence of law enforcement in terms of its vision and law enforcement missions, both at the investigator, prosecutor and court levels, should have the same presence according to the demands of law and justice of the community (Sunarsono, 2004). In reality, the existence of law enforcement officials has a tendency or impression to defend criminals and does not show the many victims who have fallen as a result of narcotics dependence.

Addicts and victims of narcotics abuse are no longer given the freedom to recover, because there are already provisions that regulate it with their own or family awareness to report and or rehabilitate addicted abusers. Judges as law enforcers are also authorized to impose decisions on addicts who are not guilty of committing narcotics crimes to continue undergoing treatment and rehabilitation.

One of the policies that support the prevention of narcotics crimes for narcotics addicts is the implementation of rehabilitation. Narcotics addicts and victims of narcotics abuse must undergo medical rehabilitation and social rehabilitation. Rehabilitation of drug addicts is a treatment process to free addicts from dependence, and the period of undergoing rehabilitation is counted as a period of serving a sentence.

The basis for the punishment of victims of narcotics addicts is Law No. 35 of 2009 concerning Narcotics, namely by means of rehabilitation. Rehabilitation is regulated in Article 54 which reads "Narcotics addicts and victims of narcotics abuse are required to undergo medical rehabilitation and social rehabilitation".

Explanation of the measures that can be imposed on a person who uses drugs referred to in Article 127 Jo. Article 54 Jo. Article 103 of Law number 35 of 2009 concerning narcotics is SEMA RI (Circular Letter of the Supreme Court of the Republic of Indonesia) Number 4 of 2010 Jo. SEMA RI NUMBER 7 of 2009 explains that narcotics addicts can be placed in rehabilitation institutions, the criteria are

1. When the defendant is arrested by BNN investigators or police investigators in a state of arrest.
2. When caught red-handed in accordance with item a above, evidence of 1 day's use was found with the following details:
 - a. Metamphetamine group (shabu- shabu) weighing 1 gram
 - b. MDMA (ecstasy) group weighing 2.4 grams or 8 items

- c. Heroin group weighing 1.8 grams
- d. Group of 1.8 grams of cocaine
- e. Group of marijuana weighing 5 grams
- f. Coca leaves weighing 5 grams
- g. Meskalin weighing 5 grams
- h. Psilocybin group weighing 3 grams
- i. LSD (D-Lusergic acid diethylamide) group weighing 2 grams
- j. PCP (Phencylidine) group weighing 3 grams

The purpose of punishment in the implementation of this rehabilitation is treatment (treatment) and rehabilitation (improvement), which looks more at giving punishment to the perpetrator of the crime rather than on his actions. So that the goal of legal expediency for addicts in narcotics crimes can be achieved. The rehabilitation arrangement for narcotics addicts shows the existence of a criminal law policy that aims to prevent drug abusers and addicts from abusing the narcotics. Rehabilitation efforts are an appropriate alternative punishment for drug addicts, which should be supported by implementing regulations that accommodate the rights of drug abusers and addicts. Based on the background above, the author is interested in conducting research with the title: Criminal Law Policy towards the Implementation of Addict Rehabilitation in Narcotics Crime.

The application of rehabilitation sanctions to addicts as one of the efforts to overcome narcotics addiction is inseparable from the efforts of the government and law enforcement in applying rehabilitation sanctions for narcotics abusers and addicts. The application of regulations as instructions for handling drug abusers and addicts into rehabilitation institutions, in fact there are still differences in each implementation in each government and law enforcement agency. The differences in implementation include arrest, placement of drug abusers or addicts during the examination process until trial, efforts to examine and provide rehabilitation through the recommendations of the assessment team, then considerations and decisions issued by the Panel of Judges. According to Article 2 of the Joint Regulation that has been formed by the government and law enforcement, each institution in the Joint Regulation has a goal which includes the implementation of the process of medical rehabilitation and social rehabilitation at the level of investigation, prosecution, trial and punishment in a synergistic and integrated manner for people who abuse or addict drugs who are suspects, defendants, or prisoners.

In Law No. 35 of 2009 concerning Narcotics, the agency authorized to carry out the rehabilitation process is the BNN (National Narcotics Agency) which is regulated in article 70 to article 72 has the following duties and authorities:

Article 70:

BNN has a duty:

1. To formulate and implement national policies regarding the prevention and eradication of abuse and illicit trafficking of Narcotics and Narcotics Precursors;
2. Prevent and eradicate the abuse and illicit trafficking of Narcotics and Narcotic Precursors;
3. Coordinate with the Chief of Police of the Republic of Indonesia in the prevention and eradication of abuse and illicit trafficking of Narcotics and Narcotic Precursors;
4. Improve the capacity of medical rehabilitation and social rehabilitation institutions for drug addicts, both organized by the government and the community;
5. Empowering the community in the context of prevention, abuse and illicit trafficking of Narcotics and Narcotics Precursors;
6. Monitor, direct, and improve community activities in the prevention of abuse and illicit trafficking of Narcotics and Narcotic Precursors;
7. Conduct bilateral and multilateral cooperation both regionally and internationally, in order to prevent and eradicate illicit trafficking of Narcotics and Narcotics Precursors.
8. Developing narcotics and precursor laboratories;
9. Carry out administration of investigations and investigations into cases of abuse and illicit trafficking of Narcotics and Narcotics Precursors.
10. Make prisoner reports on the implementation of duties and authorities."

Article 71

"In carrying out the task of eradicating the abuse and illicit trafficking of Narcotics and Narcotics Precursors, BNN is authorized to conduct investigations and inquiries into the abuse and illicit trafficking of Narcotics and Narcotics Precursors."

Article 72

BNN has the Authority:

1. The authority as referred to in article 71 is exercised by BNN investigators.

2. BNN Investigators as referred to in paragraph (1) are appointed and dismissed by the Head of BNN.
3. Further provisions regarding the terms and procedures for the appointment and dismissal of BNN investigators as referred to in paragraph (2) shall be regulated by regulation of the head of BNN."

The basis for punishment of victims of narcotics abuse is Law No. 35 of 2009 concerning Narcotics, namely by means of rehabilitation. Rehabilitation is regulated in articles 54-59.

Article 54

Narcotics addicts and victims of narcotics abuse must undergo medical rehabilitation and social rehabilitation.

Article 55

1. Parents or guardians of Narcotics Addicts who are not yet of legal age are obliged to report to a community health center, hospital, and/or medical rehabilitation and social rehabilitation institution appointed by the Government to obtain treatment and/or care through medical rehabilitation and social rehabilitation.
2. Narcotic addicts who are of legal age must report themselves or be reported by their families to a community health center, hospital, and/or medical and social rehabilitation institution appointed by the Government to receive treatment and/or care through medical rehabilitation and social rehabilitation.
3. Provisions regarding the implementation of mandatory reporting as referred to in paragraph (1) and paragraph (2) shall be regulated by Government Regulation.

Article 56 (1) Medical rehabilitation of Narcotic Addicts is carried out at a hospital appointed by the Minister. (2) Certain rehabilitation institutions organized by government agencies or the community may perform medical rehabilitation of Narcotic Addicts after obtaining approval from the Minister.

Article 57 In addition to medical treatment and/or rehabilitation, the recovery of drug addicts can be organized by government agencies or the community through religious and traditional approaches. Article 58, Social rehabilitation of former drug addicts is organized both by government agencies and by the community.

Article 59 (1) The implementation of the provisions as referred to in Article 56 and Article 57 shall be regulated by Ministerial Regulation. (2) The implementation of the provisions as referred to in Article 58 shall be regulated by regulation of the minister who organizes government affairs in the social sector.

B. Medical Rehabilitation Efforts for Narcotics Addicts

The impact of drug abuse affects the family, the community and the government, resulting in disrupted relationships between the three. Abuse becomes a burden to the family, there is a bad stigma of the community towards victims, the behavior of victims tends to commit criminal acts, brawls and the government experiences interference in continuing development, especially in the development of human resources. The impact of drug abuse directly affects the physical and psychological condition of victims.

Addicts are basically victims of drug abuse who violate government regulations, and they are Indonesian citizens who are expected to build this country from the downturn in almost all fields. In relation to the problem of drug abuse, a criminal law policy is needed that positions drug addicts as victims, not criminals.

Based on data from the National Narcotics Agency (BNN) which says that since 2003, the number of drug cases in Indonesia has increased with the number of suspects continuing to grow. Even in 2019 the number of people in rehabilitation reached 17,700 people. Narcotics cases are not only rampant in Indonesia but throughout the world. An example is what happened in Mexico. Narcotics can enter the place of the mayor of Mexico. In fact, in Mexico the former attorney general was arrested for being in the group (BNN, 2016).

Medical rehabilitation according to the General Provisions of Article 1 number 16 of Law Number 35 of 2009 concerning Narcotics is a process of integrated treatment activities to free addicts from narcotics dependence.

In the rehabilitation process here, not only addicts can be rehabilitated, but also victims and abuse of narcotics themselves. It is said that addicts and victims of the extent to which the person knows narcotics, depending on the assessment as a benchmark carried out by the Medical Team and the Legal Team that examines the person so that they can be categorized as drug addicts and victims of narcotics abuse.

Implementation of rehabilitation is the realization of a rule, this is very important because with an implementation it can be seen whether a rule has actually been implemented or not. Law Number 35 of 2009 concerning narcotics has provided different treatment for drug abusers, before this law came into force there was no different treatment between users, dealers, dealers or producers of narcotics (Makarao et al., 2003).

Proper crime prevention efforts should not only focus on various matters related to the causes of crime but also on what methods are effectively used in crime prevention (AR. & Daniel, 2009). The provision of rehabilitation for drug abusers is considered necessary to suppress the use of

narcotics and illegal drugs.

The role of rehabilitation in healing dependence for drug addicts is very important, because of the increasing number of drug addicts among children and adolescents. The effectiveness of rehabilitation to cure victims of narcotics is very necessary, given the difficulty of victims or users of narcotics to be released from narcotics dependence individually. On the one hand, drug users or addicts are perpetrators of criminal acts, but on the other hand, they are victims (Adi, 2009). Every drug abuser who uses the criminal provisions are regulated in Article 127 of Law No. 35/2009 concerning Narcotics. Article 127 stipulates that every narcotics abuser is punishable by imprisonment, while narcotics addicts and victims of narcotics abuse are placed in medical rehabilitation and social rehabilitation institutions.

Narcotics addicts and Narcotics abuse addicts must undergo medical rehabilitation and social rehabilitation. The explanation of Article 54 is that every person who is dependent on narcotics is obliged to undergo medical and social rehabilitation in order to cure the person (narcotics addict), namely someone who consciously and deliberately consumes narcotics on his own basis for himself without any element of coercion, persuasion and / or threatened to use narcotics. What is meant by "Victim of narcotics abuse" is someone who does not intentionally use narcotics because they are persuaded, tricked, cheated, forced, and/or threatened to use narcotics. So that they are required to get both medical and social rehabilitation.

Rehabilitation of drug addicts is a treatment process to free addicts from dependence, and the period of undergoing rehabilitation is counted as a period of serving a sentence. Rehabilitation of drug addicts is also a form of social protection that integrates drug addicts into social order so that they no longer abuse drugs. Based on Law Number 35 of 2009 concerning Narcotics, there are at least 2 (two) types of rehabilitation, namely medical rehabilitation and social rehabilitation. Article 1 point 16 of Law Number 35 of 2009 concerning Narcotics states that: *"Medical Rehabilitation is a process of integrated treatment activities to free addicts from narcotics dependence"*.

In the process of medical rehabilitation, there is a process that has been carried out by BNN, namely the Treatment of Terrapin Methadone (PTRM), a healing process that uses substitutes or substitutes, namely subutek substances, but these substances have a dependence effect so that these substances are replaced with methadone which has no dependence effect, methadone substances are intended specifically for narcotics addicts who consume heroin and Injecting Drug Users (PENASUN). In other words, Injection Drug User (IDU). Medical rehabilitation is carried out in a hospital referred by the Minister of Health, while social rehabilitation for drug addicts is carried out in a social rehabilitation institution appointed by the Minister of Social Affairs. This refers to

the places appointed by the minister, namely Lido in Bogor and Makasar owned by BNN which includes medical rehabilitation and social rehabilitation, currently the central government through the Head of BNN.

Medical rehabilitation is carried out in a hospital appointed by the minister of health, while social rehabilitation for narcotics addicts is carried out in a social rehabilitation institution appointed by the minister of social affairs, this refers to the Lido place in Bogor and Makassar owned by BNN which includes medical rehabilitation and social rehabilitation, currently the central government through the Head of BNN emphasizes that local governments are expected to have their own rehabilitation places to help narcotics addicts in the jurisdiction of the City. In the medical rehabilitation process, there is a process carried out by BNN, namely the Terrapin Methadone Treatment, which is a healing process that uses a substitute or substitute substance, namely subutek, but this substance has a dependence effect so that this substance is replaced with methadone which has a dependence effect, the substance is only intended specifically for narcotics addicts who consume heroin and narcotics users by injecting (PENASUN).

Rehabilitation as the main objective of this type of sanction has special features in terms of the resocialization process of the perpetrator, so that it is expected to restore the social and moral quality of a person in order to reintegrate in society (BNN, 2016). The equal position of criminal sanctions and sanctions is very useful to maximize the use of both types of sanctions proportionally.

Health facilities that can provide medical rehabilitation services for addicts, drug abusers, and victims of drug abuse who are in the process of investigation, prosecution, and trial or have obtained a court decision consist of public hospitals owned by the government or local government, public hospitals owned by the TNI / POLRI, special hospitals for drug dependence, mental hospitals, or medical rehabilitation institutions owned by the government or local government. The rehabilitation program can be undertaken by addicts who use the mandatory reporting program (IPWL), addicts who are undergoing a judicial process and addicts who are ordered based on a court decision (Triwibowo, 2014). Regulation of the Minister of Health of the Republic of Indonesia Number 46 of 2012 concerning Procedures for the Implementation of Medical Rehabilitation for Addicts, Abusers, and Victims of Narcotics Abuse Who Are in the Process or Who Have Been Decided by the Court explains that the criteria for health facilities that can be proposed as medical rehabilitation facilities for drug offenders are: a) Have a drug rehabilitation service unit, at least an allocation of beds for treatment for 3 months; b) Have health personnel consisting of at least doctors, nurses and pharmacists trained in the field of drug use disorders; c) Have a drug medical rehabilitation program, at least a short-term inpatient program with

symptomatic services and simple psychosocial interventions; d) Have a standard operational procedure for drug medical rehabilitation programs; e) Have a minimum security procedure standard which includes procedures: (1) Recording of incoming and outgoing visitors; (2) Duties of security guards; (3) Security of patients to avoid the possibility of hurting themselves or others minimum security which includes procedures: (1) Recording of incoming and outgoing visitors; (2) Duties of security guards; (3) Security of patients to avoid the possibility of injuring themselves or others.

The stages of rehabilitation for drug addicts:

- a. In the medical rehabilitation (detoxification) stage, the addict is checked for physical and mental health by a trained doctor. It is the doctor who decides whether the addict needs to be given certain drugs to reduce his or her withdrawal symptoms. In this case the doctor needs sensitivity, experience, and expertise to detect the symptoms of drug addiction;
- b. In the non-medical rehabilitation stage, the addict participates in a rehabilitation program. In Indonesia, rehabilitation centers have been built, for example under the BNN, rehabilitation centers in the Lido area (Unitra Campus), Baddoka (Makassar), and Samarinda. In these rehabilitation centers, addicts undergo various programs including therapeutic communities (TC), 12 steps, religious approaches, and others;
- c. In the after care stage, addicts are given activities according to their interests and talents to fill their daily activities, addicts can return to school or work but remain under supervision.

Deficiencies in the form of obstacles that often arise such as the Integrated Assessment Team Recommendation Letter consisting of the Medical Team and the Legal Team which is only a recommendation for the implementation of rehabilitation, but henceforth the implementation can be carried out properly by investigators, prosecutors and courts at every level of the judicial sub-system, these recommendations are not only used by judges as a mitigating factor for the defendant, but every legal process in the judiciary can also fulfill the right of suspects or defendants to undergo rehabilitation.

CONCLUSIONS

In terms of benefits, medical rehabilitation is the most appropriate sanction because the benefits are felt by the victim and do not harm other parties in the process. For the Indonesian government, the eradication of every drug user and addict is a monumental endeavor. From a human rights perspective, when a judge makes a decision, he not only provides protection to the victim and restores public confidence that the victim's actions can be explained, but he also helps to block the

future.

This section contains conclusions obtained in the form of paragraph descriptions with reference to the problem formulation. Writing conclusions does not use numbering or *bullet points*, but in the form of narratives in paragraph form.

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