



Effectiveness of Rehabilitation for Drug Addicts in Law Number 35 of 2009 Concerning Narcotics

CSA Teddy Lesamana^{1*}, Rival Apriliandi², Ferry Supriyadi³, Muhammad Alrizky Ekiawan⁴

^{1,2,3,4} Law Study Program, Faculty Of Business And Humanities
Nusa Putra University
Sukabumi, West Java, Indonesia

^{1,2,3,4} {teddy.lesmana, rival.apriliandi_hk20, ferry.supriyadi_hk20, muhammad.alrizky_hk20}@nusaputra.ac.id

Abstract. The percentage of drug user data increases every year and the number is dominated by productive age. Legal arrangements related to sanctions for drug abusers are contained in Law Number 35 of 2009 concerning Narcotics where the applicable sanctions refer to the double track system, because based on the victimology review that drug addicts are self-victimizing victims, namely victims as perpetrators, as well as perpetrators of a crime / crime, they must also be punished. 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. However, due to the vagueness in the articles relating to the application of medical and social rehabilitation measures for addicts, drug crime defendants often receive prison sentences rather than rehabilitation. In fact, rehabilitation is considered more effective in reducing and preventing a person's dependence on drugs.

Keywords: Effectiveness, Drug Addict, Rehabilitation.

1 Introduction

Based on data from the National Narcotics Agency (BNN), the percentage of drug users in 2021 reached 1.95 percent or 3.66 million people, including children. This figure increased by 0.15 percent from the previous year. Meanwhile, data from the Directorate General of Corrections states that around 125 children were fostered in Special Child Development Institutions (LPKA) and adult prisons related to drug cases in 2021. [1] The majority of drug abusers are former drug users who experience relapses, even about 1 million of the drug user data has become drug addicts. [2] The age group of drug abusers themselves for the first highest level, as many as 34.1 percent of the 745 defendants convicted of drug abuse cases are in the age range of 26-35 years or the age group of early adulthood. The second highest age group of defendants, as many as

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29.8% are defendants with an age range of 36-45 years or in the late adult category. The age group of defendants with the third highest number, as many as 28.6% with an age range of 18-25 years or juvenile category. Meanwhile, the group of children and the elderly group counted less than the age category of adolescents to adults. From these data, it is clear that the majority of accused drug users are of productive age. [3]

Even though the legal regulation regarding narcotics crime itself has been regulated in Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics. In this narcotics law, the definition of a drug addict is a person who uses or abuses narcotics and is in a state of dependence on narcotics both physically and psychologically". The application of punishment for drug addicts is regulated in article 103 of Law of the Republic of Indonesia Number 35 of 2009 concerning narcotics. Then further classification of the application of the punishment of drug addicts is regulated in the "Supreme Court Circular number 04 of 2010" concerning "Abuse, Victims, Abuse, and Drug Addicts into Medical Rehabilitation and Social Rehabilitation Institutions". [4]

Although there are already applicable regulations related to drugs, it can be seen in previous data, that drug users tend to increase every year and users are dominated by people who are at a young and productive age, namely 18-45 years. Where most people repeat drug use or relapse is quite high. Therefore, to improve efforts to recover drug addicts, namely through the availability and implementation of comprehensive and sustainable rehabilitation services through rehabilitation services followed by post-rehabilitation services (continuous rehabilitation) to addicts, abusers and victims of drug abuse in rehabilitation facilities owned by government agencies and community components both central and regional that have been operating in accordance with standards minimal service. This is to prevent the return of their drug use and it is hoped that drug addicts who are still in productive age can carry out normal activities.

1.1 Problem Formulation

Based on the background presentation above, the problems that will be the problem in this study are:

1. What is the Concept of Rehabilitation Arrangements in the Criminal Law System in Indonesia?
2. How Effective is Rehabilitation for Addicts in Law Number 35 of 2009 concerning Narcotics?

2 Research Methods

The research method used is the normative legal research method. According to Peter Mahmud Marzuki, normative legal research is a process to find a rule of law, legal principles, and legal doctrines to answer the legal issues faced. [5] With the approach used, the statutory approach (statue approach) is an approach taken by analyzing the

form of laws and regulations related to legal issues and legal facts that are being handled and connected with the problems that are the subject of discussion. [6]

3 Discussion

3.1 The Concept of Rehabilitation Arrangements in the Criminal Law System in Indonesia

As is known, drug abusers for themselves (self-victimizing) are threatened with crime in article 127 paragraph 1 and paragraph 2 of the Narcotics Law, where there is a provision that judges must pay attention to article 54, article 55, and article 103, then in article 103 paragraph 1 there is a provision for judges to decide and order drug addicts who are found guilty of committing criminal acts to undergo (sanction action) treatment and/ or treatment through Rehabilitation. In fact, if understood in the general provisions of article 1 number 13 concerning drug addicts, there is a term "abusing narcotics" and in article 1 number 15 there is a definition of drug abusers. This indicates that drug addicts also include drug abusers, which means that a drug addict will also undergo two types of sanctions at once.

Taking into account the formulation of sanctions in the Law above, it can be said that the formulation of sanctions for criminal acts of narcotics abuse refers to Double Track System, because based on a victimology review that drug addicts are as self-victimizing victims Namely the victim as the perpetrator, victimology still determines drug abuse as a victim, even though the victim of a crime / crime committed by himself. Therefore, drug addicts who are also victims deserve protection. However, because drug addicts are also perpetrators of a crime, they must also be punished, because of this it is said that Double Track System in the formulation of sanctions against the criminal act of narcotics abuse. [7]

Drug addicts themselves are people who are physically ill and mentally ill because of their addiction to drugs. He must be looking for the fulfilment of narcotics needs in any way, so for drug addicts need to be rehabilitated and treated rather than he must be placed in a Penitentiary (LAPAS). Because it is feared that he will continue to commit other new crimes in the penitentiary, such as bribery practices with unscrupulous individuals, committing violence and being a murderer, even being part of a drug dealer syndicate in the prison that often occurs recently. So that efforts are made for those who become drug abusers to be channelled to the Rehabilitation Center for treatment.

Rehabilitation provisions for drug users are regulated in the "Supreme Court Circular number 04 of 2010" concerning "Abuse, Victims, Abuse, and Drug Addicts into Medical Rehabilitation and Social Rehabilitation Institutions". Rehabilitation of drug addicts is a treatment process to free addicts from dependence, and the period of rehabilitation is counted as the 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 number 16 and number 17 of Law Number 35 of 2009 concerning Narcotics states that (16) Medical Rehabilitation is a process of integrated treatment activities to free addicts from narcotics dependence. (17) Social Rehabilitation is a process of integrated recovery activities, both physical, mental and social, so that former drug addicts can return to carry out social functions in community life.

Some drug rehabilitation in Indonesia is outpatient and inpatient, some are privately owned and some are government-owned. The National Narcotics Agency (BNN) as the leading sector in drug handling has several inpatient rehabilitation places, one of which is at the BNN Rehabilitation Center (Babes Rehab BNN). BNN Rehab Babes is BNN's first and largest rehabilitation site. The place serves rehabilitation for addicts and drug abusers both voluntary (Voluntary) and legal cases (Compulsary).

For compulsaries, the rehabilitation period counts as the time of serving the sentence. Instead of people who are undergoing trial and time in prison for drug cases, they will be placed in rehabilitation. Of course, not all drug cases can be in rehabilitation, it really depends on the court decision given by the judge & the results of the integrated assessment at the time of arrest by the Integrated Assessment Team (TAT). The results of the integrated assessment (TAT) are very important because they will determine whether drug abusers are included as addicts who must be rehabilitated or as perpetrators of crimes who must be imprisoned.

However, not only the results of the TAT assessment can place a person in rehabilitation but the results of the judge's decision can also place someone who has a legal case in rehabilitation as a form of serving a sentence. Based on the criminal provisions in Article 127 of Law Number 35 of 2009, the understanding can be drawn that the crime that can be imposed on drug abusers is imprisonment. However, in applying the criminal sanctions in the form of imprisonment, the Law requires judges to pay attention to the provisions referred to in Article 54, Article 55, and Article 103. [8]

3.2 The Concept of Rehabilitation Arrangements in the Criminal Law System in Indonesia

In 2021, BNN has carried out rehabilitation services for drug addicts and abusers throughout Indonesia with a total of 13,627 people. Of which 1,511 people received inpatient rehabilitation services, 9,779 people received outpatient rehabilitation services and 2,337 people received intervention services and referrals to IBM services. [9] Then, the number of victims of abuse and / or drug addicts who increase their quality of life is the number of victims of abuse and or drug addicts who receive continuous rehabilitation services, ranging from initial admission – medical and/or social rehabilitation to post-rehabilitation services or advanced development with drug-free conditions and at the end of the program experiencing improved quality of life (measured through the WHO-QoL instrument with indicators that increase at least 2 out of 4 metered domain). The results of the 2021 measurement found that there were 3,222 people who received continuous rehabilitation services with the results of 1,737 people or

53.91% who experienced an improvement in their quality of life and 1,484 people or 46.09% who did not improve their quality of life.

Table 1. Rehabilitation Service Beneficiary Outcome Data

No.	Number of Patients Receiving Rehabilitation	Patients Who Improve Their Quality of Life	Patients Who Don't Improve Their Quality of Life
1.	3,222	1,737 people (53.91%)	1,484 people (46.09%)

Source: Research on Criminal Disparities and Policies for Handling Narcotics Cases in Indonesia

If you look at the age data of most drug users who are in productive age, then the data on the results of recipients of rehabilitation services increases their quality of life. Thus, the most effective way to reduce drug consumption and prevent people from becoming dependent is to carry out rehabilitation in addition to imprisonment. In accordance with the UN recommendations at UNGASS 2016, participating countries have committed to address the health care problems of drug users by promoting and strengthening service-related initiatives, namely rehabilitation, social reintegration and recovery support programmes. UNODC has also called for rehabilitation consisting of education, services and support to be an effective alternative to criminalization for drug addicts.

However, due to the vagueness in the article relating to the application of medical and social rehabilitation measures for drug addicts and abusers, where in the provisions of Article 54, Article 103, Article 127 imprisonment is actually applied to abusers, which is not in line with this purpose. In Article 127, abusers are actually threatened with a maximum prison sentence of 4 years for class I narcotics abusers, 2 years for class II narcotics and 1 year for class III narcotics. If indeed from the beginning the purpose of the drug law is applied, then there should be no regulation that provides a risk of drug abusers getting detention and imprisonment.

In another section of the explanation to Article 54 there is a subject of "victim of abuse" as someone who accidentally uses Narcotics because he is persuaded, deceived, deceived, coerced, and/or threatened to use Narcotics. Article 54 explains that rehabilitation is only for addicts and victims of abuse, there is also the potential for criminalization with the regulation of Article 127 which still contains criminal threats, even though he is a victim of drug abuse due to being deceived, deceived, forced or threatened, he should not be convicted at all. As for recreational abusers, criminal threats can actually be imprisoned in Article 127.

As for the results of the indexation of the Narcotics Abuser case, it was found that 12 defendants had fulfilled the requirements for granting rehabilitation verdicts based on SEMA 04/2010, but were still sentenced to prison. Several reasons for the judge to continue imprisonment, among others: the provision of rehabilitation should be imposed after the defendant has finished serving his crime (prison), during the trial the defendant looks fine and healthy so it deserves to be imprisoned, there is no clarity regarding the recommendation for the place of rehabilitation from TAT, so the judge still decides with the imprisonment, so far the defendant has often / several times used narcotics, so that the Defendant should be subject to imprisonment.

4 Conclusion

Rehabilitation for drug addicts can be one of the efforts to optimize sanctions that have not been effective in preventing and overcoming drug abuse, rehabilitation as an effort to cure both medically and socially as stipulated in Law Number 35 of 2009 concerning Narcotics and rehabilitation decisions are rights that must be pursued for drug addicts. As support for the implementation of rehabilitation, the government can also make derivative rules or decrees regarding the existence of a post-rehabilitation supervisory team which is considered important enough to be made to strengthen existing regulations related to rehabilitation.

The number of recipients of rehabilitation services who improved their quality of life was higher than those who did not. Thus, prison is not the right solution for drug addicts. Moreover, most drug addicts are at a productive age where there is still great hope for them to fill their lives with positive things and can build the nation. So, it is hoped that the applicable regulations related to rehabilitation will be clarified so as not to cause confusion. So that it can produce definite decisions regarding the provision of rehabilitation sentences for drug addicts.

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