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IMPLEMENTATION OF REHABILITATION FOR DRUG ABUSES ACCORDING TO LAW NUMBER 35 OF 2009 CONCERNING NARCOTICS

Bambang Tri Bawono

Fakultas Hukum Universitas Islam Sultan Agung, Semarang, E-mail: bambang@unissula.ac.id

Dwi Wahyono

Fakultas Hukum Universitas Islam Sultan Agung, Semarang, E-mail: dw.59@yahoo.com

Andri Winjaya Laksana

Fakultas Hukum Universitas Islam Sultan Agung, Semarang, E-mail: andriwinjaya@gmail.com

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ABSTRACT

Penelitian ini bertujuan untuk mengetahui dan menganalisis pelaksanaan rehabilitasi bagi penyalahguna narkotika menurut UU No. 35 Tahun 2009 tentang Narkotika dan Hambatannya serta solusi apa yang dihadapi dalam pelaksanaan rehabilitasi bagi pecandu atau penyalahguna narkotika. Metode pendekatan yang digunakan dalam penelitian ini adalah yuridis sosiologi. Hasil penelitian ini menunjukkan bahwa pelaksanaan rehabilitasi bagi pecandu atau korban penyalahgunaan narkotika pada prinsipnya dilakukan melalui putusan pengadilan atau permintaan dari pecandu atau korban penyalahguna narkotika. Ada tiga tahapan yang dilakukan untuk mengembalikan pecandu atau korban penyalahguna narkotika ke keadaan semula, yaitu tahap medis, tahap non medis, dan tahap periodik atau lanjutan. Kendala yang dihadapi dalam pelaksanaan rehabilitasi adalah pecandu atau korban penyalahguna narkotika yang sudah dalam kondisi setengah gila, pecandu atau penyalahguna narkotika tidak mau terbuka, faktor keluarga, dan pandangan kepolisian yang masih menerapkan pidana penjara selama-lamanya pecandu narkotika.

This study aims to determine and analyze the implementation of rehabilitation for narcotics abusers according to Law no. 35 of 2009 concerning Narcotics and Barriers and what solutions are faced in the implementation of rehabilitation for addicts or narcotics abusers. The approach method used in this research is juridical sociology. The results of this study indicate that the implementation of rehabilitation for addicts or victims of narcotics abuse in principle is carried out through court decisions or requests from addicts or victims of narcotics abusers. There are three stages carried out to return addicts or victims of narcotics abusers to their original state, namely the medical stage, the non-medical stage, and the periodic or advanced stage. The obstacles faced in the implementation of rehabilitation are addicts or victims of narcotics abusers who are already in a semi-crazy condition, addicts or narcotics abusers do not want to open up, family factors, and the view of the police who still apply imprisonment for narcotics addicts.

A. INTRODUCTION

Narcotics crime is a crime that has an international dimension. The entry of narcotics crime as a crime with an international dimension is due to the impact of this crime not only resulting in a mental decline in a person but also having an impact on the sustainability of the next generation of the nation. In line with this, Sudarto in this case stated that the problem of narcotics crime has become a problem for the nation and nations in the world so that narcotics crimes are included in special criminal laws which have material juridical and formal juridical implications.¹ In this regard, the threat to narcotics crimes has in turn resulted in the Government of Indonesia taking efforts to prevent and even tackle such crimes. Rules relating to such threats are regulated in Law no. 35 of 2009 concerning Narcotics.

Based on the correctional database system in the Directorate of Corrections, as of October 2019, the total number of inmates of detention centers and prisons for narcotics cases has spread to 266,118 people. Meanwhile, of this number, the number of inmates who were in detention due to narcotics cases was 52% of the total number of inmates in detention centers and prisons.² Concerning a large number of perpetrators of criminal acts of addicts, abusers, or dealers of narcotics, to prevent and eradicate narcotics crimes, treatment and rehabilitation strategies are also used for addicts or narcotics abusers.³

In line with this, concerning implementing efforts to rehabilitate addicts or narcotics abusers, it is also regulated in Article 54 of Law no. 35 of 2009 concerning Narcotics. In the article, it is clearly explained that addicts or victims of narcotics abusers are required to carry out rehabilitation.⁴ Based on this, rehabilitation efforts are carried out to restore health for addicts or narcotics abusers both psychologically and sociologically. This effort is made so that addicts or victims of narcotics abusers can interact again in the community so that they do not harm other parties. Entering the 21st century, any country has its challenges. The faced not only in the military but also non-military. Several threats to national security and defense are carried out by non-state actors such as insurgency, terrorism, human trafficking, cybercrime, narcotics, including violations of human rights.⁵

Efforts to find alternatives penalties for deprivation of liberty in the

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- 1 Roni Gunawan Raja Guguk dan Nyoman Serikat Putera Jaya, Tindak Pidana Narkotika sebagai Transnasional Organized Crime, *Jurnal Pembangunan Hukum Indonesia*, Vol.1 No.3, 2019, page.339.
 - 2 Insan Firdaus, Analisa Kebijakan Optimalisasi Pelaksanaan Rehabilitasi Narkotika di Unit Pelayanan Teknis Masyarakat, *Jurnal Ilmiah Kebijakan Hukum*, Vol.14 No.3, 2020, page 470
 - 3 Fauzi Rizky, Pelaksanaan Rehabilitasi terhadap Pecandu, Penyalahguna dan Korban Narkotika, *Riau Law Jurnal*, Vol.1 No.1, 2017, page 103.
 - 4 Dani Krisnawati dan Niken Subekti Budi Utami, Pelaksanaan Rehabilitasi bagi Pecandu Narkotika PAsca Berlakunya Peraturan Bersama 7 (Tujuh) Lembaga Negara Republik Indonesia, *Mimbar Hukum*, Vol.27 No.2, 2015, page.229
 - 5 Ida Musofiana, Aspects of Legal Protection for Children from Cybercrime, *Jurnal Pembaharuan Hukum*, Vol.7 No.2, 2020, page.202

short term were also supported by the Union Nations.⁶ It must be admitted that rehabilitation efforts for addicts or victims of narcotics crime abuse still open space for legal interpretation for anyone who must carry out rehabilitation. This is because Law no. 35 of 2009 concerning Narcotics carefully divides the clusters of perpetrators of narcotics crimes into:

1. Narcotics store
2. Addict or victim of narcotics abuse
3. Traffickers or Illegal Precursors of Narcotics

Referring to this, law enforcement against narcotics crimes that have been carried out so far does not necessarily place narcotics criminals as parties that must be rehabilitated, so in this discussion, it is necessary to examine more deeply related to the legal basis and the implementation of rehabilitation for addicts or victims, drug abuser.

B. RESEARCH METHODS

The approach method used in this research is a sociological juridical approach. While the research specifications in this study used descriptive-analytical. The data used in this study are primary data and secondary data which are divided into primary legal materials, secondary legal materials, and tertiary legal materials. These data were then analyzed using qualitative data analysis methods.

C. RESULTS AND DISCUSSION

1. Implementation of Rehabilitation for Narcotics Abusers according to Law no. 35 of 2009 concerning Narcotics

One of the causes of the destruction of the younger generation is the abuse of narcotics. Initially, narcotics were used for human purposes, especially for treatment and health services. However, with the development of the times, narcotics are used for negative things, resulting in psychological and social disturbances in society. Some of the symptoms that indicate a person is already in the addiction stage include the desire to take drugs every day or several times a day, the dose needed is getting bigger and bigger, the desire to use drugs cannot be restrained.

In this regard, the provisions governing narcotics are regulated in Law no. 35 of 2009 concerning Narcotics. In principle, two important aspects are the main concern in the law, namely:⁷

- a. Countermeasures: through the implementation of the 1998 UNODC drug demand reduction strategy in the form of international cooperation focusing on illicit production, circulation, and distribution in which Indonesia applies life and death penalties for narcotics

6 Ida Musofiana Legal Protection for Victims of Cybercrime for The Digital Era in Strengthening Cyber Democracy in Indonesia Post 2019 General Election, *The 2nd International Conference and For Call Paper*, Democracy in Digital Era : law Governance, Social, and Econommic Perspective in Asia, Australia and Dutch, 2020, page 85

7 V.L. Sinta Heriandrasti, Drug-free ASEAN 2025: Tantangan Indonesia dalam Penanggulangan Penyalahgunaan Narkoba, *Jurnal Hubungan Internasional*, Vol.7 No.1, 2018, page19

syndicates (Article 114 paragraph 2). On the other hand, implementation of supply reduction strategy through intervention for all drug supply activities by law enforcement agencies (Police, Public Prosecutors, and judiciary) such as arresting, raiding, and punishing. Law enforcement is carried out together with the supervision of airports and seaports. As well as rehabilitation efforts for treatment for addicts or narcotics abusers.

- b. The prevention aspect is achieved through optimized collaboration between various institutions, namely the government (Regional Government, Ministry of Health, Ministry of Home Affairs), law enforcement (Police of the Republic of Indonesia, public prosecutors, judiciary institutions, correctional institutions, and non-governmental organizations) and efforts of the community.

Referring to this, the way that is considered appropriate to cure dependence on addicts and narcotics abusers is to rehabilitate victims of narcotics abuse. This is because rehabilitation can release narcotics dependence so that you can enjoy a drug-free life.⁸

Provisions regarding the obligations of addicts or narcotics abusers are regulated in Article 54 of Law no. 35 of 2009 concerning Narcotics. In this article, some obligations must be carried out to carry out rehabilitation. Discussion on rehabilitation, both medical rehabilitation and social rehabilitation. Rehabilitation assistance for narcotics addicts and victims of drug abuse in Indonesia refers to the Joint Regulation on Handling Narcotics Addicts and Victims of Narcotics Abuse in Rehabilitation Institutions issued in 2014. Rehabilitation assistance also refers to Law no. 35 of 2009 concerning Narcotics and Government Regulation no. 25 of 2011. These two regulations ensure that drug users get the necessary rehabilitation services and are no longer placed as criminals or criminals.⁹ The implementation of rehabilitation for addicts or narcotics abusers is a form of necessity, considering that the implementation of punishment for narcotics abusers requires a spirit of mental development rather than punishment.¹⁰

Further rules regarding the obligations of victims of narcotics abuse to undergo medical rehabilitation and social rehabilitation are regulated in more detail in Government Regulation of the Republic of Indonesia Number 25 of 2011 concerning the Implementation of Compulsory Reporting of Narcotics Addicts. Medical Rehabilitation is a process of integrated treatment activities to free addicts from narcotics dependence. Meanwhile, Social Rehabilitation is the process of integrated recovery activities, both physically, mentally, and socially, so that former

8 Martono, Lydia Harina dan Satya Joewana, 2006, *Peran Orang Tua dalam Mencegah dan Menanggulangi Penyalahgunaan Narkotika*, Balai Pustaka, Jakarta, page 87.

9 Andri Winjaya Laksana, Tinjauan Hukum Pidanaan terhadap Pelaku Penyalahguna Narkotika dengan Sistem Rehabilitasi, *Jurnal Pembaharuan Hukum*, Vol.II No.1, 2015, page 80.

10 Lysa Angrayni dan Yusliati, Efektivitas Rehabilitasi Pecandu Narkotika (Studi di Loka Rehabilitasi Badan Narkotika Nasional Batam), *Jurnal Hukum Respublica*, Vol.18 No.1, 2018, page 82.

narcotics addicts can return to carrying out their social functions in community life.¹¹

Circular Letter of the Supreme Court Number 3 of 2011, there are several requirements to obtain a rehabilitation decision, including the following:¹²

- a. The defendant was arrested in the condition of being caught red-handed;
- b. At the time of being caught red-handed, evidence of one day's use was found;
- c. Letter of positive laboratory test using narcotics;
- d. Certificate from a psychiatrist/psychiatrist; and
- e. Not proven to be involved in the illicit trafficking of narcotics.

Determination of narcotics perpetrators must carry out rehabilitation or not, remains through a court decision. This is regulated in Article 127 paragraph (3) of Law no. 35 of 2009 concerning Narcotics which states that if the abuser can be proven or proven to be a victim of narcotics abuse, the abuser is obliged to undergo medical rehabilitation and social rehabilitation. In this regard, the factors that significantly influence the judge in giving a rehabilitation decision are a medical certificate, a psychiatric certificate from a psychiatrist or psychiatrist, and the presence of experts. On the other hand, efforts to carry out rehabilitation for addicts or victims of narcotics abusers can also be carried out through requests from narcotics addicts at medical and social rehabilitation institutions.

In line with that, a request for rehabilitation can be submitted to the National Narcotics Agency as regulated in the Head of BNN Regulation Number 11 of 2014 concerning Procedures for Handling Suspects and/or Defendants of Narcotics Addicts and Victims of Narcotics Abuse in Rehabilitation Institutions.¹³

On the other hand, the Supreme Court also issued a Supreme Court Circular No. 4 of 2010 jo Supreme Court Circular No. 3 of 2011 concerning Placement of Abusers, Victims of Abuse, and Narcotics Addicts in Medical Rehabilitation and Social Rehabilitation Institutions. One of the contents in the Circular Letter of the Supreme Court relates to rehabilitation facilities for addicts and victims of narcotics abusers. Furthermore, in Central Java, several places can be used to rehabilitate addicts or victims of narcotics abusers. The places are:

11 Yuliana Yuli W dan Atik Winanti, Upaya Rehabilitasi terhadap Pecandu Narkotika dalam Perspektif Hukum Pidana, *Adil: Jurnal Hukum*, Vol.10 No.1, page 142.

12 Tofri Dendy Baginda Sitorus, Maidin Gultom, dan Jaminuddin Marbun, Rehabilitasi terhadap Pengguna dan Korban Penyalahgunaan Narkotika dalam Konsep Pemidanaan di Indonesia (Studi Putusan di Pengadilan Negeri Purwokerto), *Jurnal Prointegrita*, Vol.4 No.1, 2020, page 205.

13 Siti Hidayatun dan Yeni Widowaty, Konsep Rehabilitasi bagi Pengguna Narkotika yang Berkeadilan, *Jurnal Penegakan Hukum dan Keadilan*, Vol.1, No.2, 2020, page 177.

Table 1.
List of Inpatient Drug Rehabilitation Centers in Central Java

No	Inpatient Agency
1	Nusakambangan Narcotics Class II A Prison.
2	Semarang Class I Prison.
3	Semarang Class IIA Women Prison
4	Magelang Class IIA Prison
5	Rindam Diponegoro

Table 2
List of Outpatient Drug Rehabilitation Centers in Central Java

No.	Outpatient Agency	No.	Outpatient Agency
1	Tegorejo Hospital	24	Majenang Hospital
2	Prof.Dr.M.Soekarjo Hospital	25	Banyumas Hospital
3	Kardinah Hospital	26	dr.R.Goeteng Taroenadibrata Hospital
4	Tidar Hospital	27	Hj.Anna Lasmanah Hospital
5	Salatiga Hospital	28	Banyudono Hospital
6	Surakarta Hospital	29	Simo Hospital
7	Semarang Hospital	30	Karanganyar Hospital
8	Kebumen Hospital	31	dr.R.Soedjati Soemodiardjo Hospital
9	dr.R.Soetijono Blora Hospital	32	R.Soepipto Cepu Hospital
10	dr.R.Soetrasno Rembang Hospital	33	Kayen Pati Hospital
11	Ambarawa Hospital	34	Ungaran Hospital
12	Djojonegoro Temanggung Hospital	35	Dr.H.Soewondo Kendal Hospital
13	Saras Husada Purworejo Hospital	36	Batang Regency Hospital
14	Wonosobo Hospital	37	Kajen Pekalongan Regency Hospital
15	Muntilan Magelang Regency Hospital	38	Dr.M.Ashari Pemalang Hospital
16	dr.Soehadi Prijonegoro Hospital	39	Bendan Hospital Pekalongan City
17	Pandan Arang Boyolali Hospital	40	Gunung Pati Health Center Semarang
18	RAA Soewondo Hospital	41	Pandanaran Semarang Health Center
19	Kudus Hospital	42	Halmahera Health Center
20	Sunan Kalijaga Hospital	43	Sejahtera Bhakti Hospital
21	Brebes Hospital	44	Bumiayu Hospital

22	dr.Soeratno Gemolong Hospital	45	Astrini Hospital
23	Suradadi Hospital	46	Cilacap Hospital

There are 3 (three) stages of medical rehabilitation for drug handling that must be carried out, namely:¹⁴ The first stage, the stage of medical rehabilitation (detoxification), is the process in which addicts stop drug abuse under the supervision of a doctor to reduce withdrawal symptoms. At this stage, drug addicts need to be monitored in a hospital by a doctor. The second stage is the non-medical rehabilitation stage, namely with various programs in rehabilitation, such as therapeutic communities (TC) programs, religious approaches, or moral and social support. And the third stage, the advanced development stage, will provide activities according to interests and talents. Addicts who have successfully passed this stage can return to society, either to go to school or return to work.

Stages of medical rehabilitation or detoxification are under the supervision of a doctor. In this case, the doctor will perform several physical and mental examinations on drug addicts, including screening for sexually transmitted infections, HIV/AIDS, and others. The doctor will also decide whether the patient needs certain drugs so as not to experience withdrawal symptoms, which are adjusted to the type of drug and the degree of severity. Common detoxification techniques include:¹⁵

- a. Cold turkey, which locks the addict in the pocket phase without giving other drugs (2 weeks).
- b. Substitution therapy, namely therapy specifically used for heroin or opioid addicts. Heroin needs will be replaced with methadone, codeine, morphine, or naltrexone.
- c. Symptomatic therapy, namely giving drugs that are tailored to the complaints of drug addicts.

After carrying out the medical stage, it will then be continued with the social or non-medical stage. At this stage, users will undergo several programs, namely:

- a. Therapeutic Communities (TC) is a social rehabilitation method aimed at victims of drug abuse, where people with the same problems and goals come together as a family, resulting in positive behavioral changes.¹⁶

14 Ahmad Adi Wijaya, Peran Petugas Lembaga Rehabilitasi dalam Penanganan Korban Penyalahgunaan Narkotika, *Jurnal Ilmiah Universitas Atmajaya*, 2020, page 5.

15 Akmal Hawi, Remaja Pecandu Narkotika: Studi tentang Rehabilitasi Integratif di Panti REhabilitasi Narkotika Pondok Pesantren Ar-Rahman Palembang, *Tadrib*, Vol.4 No.1, 2018, page 110.

16 Irfan Ardani dan Heti Sri Hari Cahyani, Efektivitas Metode Therapeutic Community dalam Pencegahan Relapse Korban Penyalahgunaan Napza di Panti Sosial PAmardi Putra Galih Pakuan Bogor Tahun 2017, *Buletin Penelitian Sistem Kesehatan*, Vol. 22, No. 3, 2019, page 185.

- b. Criminon. This stage aims to foster addicts so as not to return to crime.
- c. Spiritual guidance aims to restore moral or religious values to become a better human being. In general, the efforts made in this training are:¹⁷
 - 1) teach religious knowledge to patients.
 - 2) re-install the spirit of faith and piety in the soul.
 - 3) provide practices to eliminate bad habits.

At this stage, addicts and victims of narcotics abuse are taught to meditate so that they can calm their minds and control themselves from the "temptation" of these illicit goods. Drug addicts are more emphasized on positive suggestions. Because drugs do not have any positive impact in the long term. Addicts will also be given suggestions that drugs will make them look weird and lose their identity.

In the last stage, namely further development, users will be given activities according to their respective interests and talents. For example, work activities or skills, sports, and the arts. Work activities are carried out so that users can return to their social environment, carry out a healthy lifestyle, become more productive and more confident. All stages should ideally be carried out under the supervision of a counselor. In addition, the rehabilitation center must have a permit from the Ministry of Health or the Ministry of Social Affairs.

The stages of drug rehabilitation in Indonesia have proven to be very helpful for addicts or victims of narcotics abusers to return to the "straight" path. However, those who go through this stage still need to get support from family, partners, and closest friends. Therefore, if there are relatives who happen to have to undergo drug rehabilitation, make sure the people closest to them don't just give up.

2. Barriers and Solutions Faced in the Implementation of Rehabilitation for Narcotics Abusers

Efforts to carry out rehabilitation for addicts or victims of narcotics abuse certainly cannot be carried out smoothly without any obstacles. The obstacles faced in the implementation of the rehabilitation are as follows:

- a. The addict or victim of narcotics abuse turns out to have experienced a semi-insane condition (dual diagnosis) or has experienced a severe illness that requires special medical treatment. This is due to the use of narcotics for many years and has led to becoming a heavy addict;
- b. Narcotics addicts or abusers do not want to open up and realize that narcotics are very dangerous. Addicts are afraid of being targeted for surgery;

17 Nurdin Bakri dan Barmawi, Efektivitas Rehabilitasi Pecandu Narkotika Melalui Terapi Islami Di Badan Narkotika Nasional (BNN) Banda Aceh, *Jurnal Psikoislamedia*, Vol. 2, No. 1, 2017. page 91

- c. family factor. The success or failure of the rehabilitation process is also determined by family support. There are still many people whose families are narcotics addicts who have not reported themselves. The community does not yet have a voluntary rehabilitation culture;
- d. The police view still applies imprisonment for narcotics addicts. Police investigators are still holding the view that the rehabilitation facilities are not sufficient and the numbers are not sufficient.

In this regard, other obstacles faced by National Narcotics Agency in the implementation of rehabilitation for addicts or victims of narcotics abuse is disharmony of various agencies that synergize with National Narcotics Agency in the regency, limited funds, low community participation, obstacles in facilities and infrastructure. The solution taken by BNN in dealing with these obstacles is to maintain communication and improve coordination, form a task force to conduct research, receive financial assistance from other parties, form task forces in sub-districts, and sub-districts, and provide rewards.

The solutions for preventing the crime of drug abuse include:

- a. Primary prevention or early prevention, which is aimed at individuals, families or communities, and communities who have not been touched by the problem of drug abuse and trafficking, with the aim of making individuals, families, groups, and communities alert and having deterrence and prevention power and resilience to refuse and fight it.
- b. Secondary prevention or prevention of vulnerability, is aimed at groups or communities that are prone to drug abuse, for example living in slums or working in entertainment venues. The goal is that they can strengthen their defense against persuasion and seduction or coercion from other parties or the emergence of an inner urge to try drugs;
- c. Tertiary prevention or prevention of relapse users/addicts who have participated in therapy and rehabilitation programs, so as not to relapse. Prevention of drug abuse is carried out within families, schools, communities, workplaces, and the wider community, through communication, information, and education activities using various media that allow them to be adapted to conditions in the field.

D. CONCLUSION

The implementation of rehabilitation for addicts or victims of narcotics abuse in principle is carried out through court decisions or requests from addicts or victims of narcotics abusers. Concerning the implementation of rehabilitation for narcotics addicts or abusers, it is carried out in places that have been determined in SEMA No. 3 of 2011 concerning Placement of Abusers, Victims of Abuse, and Narcotics Addicts in Medical Rehabilitation and Social Rehabilitation Institutions. In line with that, there are three stages carried out to return addicts or victims of narcotics abusers to their original state, namely the medical stage, the non-medical stage, and the periodic or advanced stage. The obstacles faced in the implementation of rehabilitation are addicts or victims of narcotics abusers who have already experienced a semi-insane condition (dual diagnosis) or have experienced a

serious illness that requires special medical treatment, addicts or narcotics abusers do not want to open up and realize that narcotics are very dangerous. , family factors that have not provided full support to narcotics addicts or abusers, and the view of the police who still apply imprisonment for narcotics addicts.

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