

## **The Application of the Concept of Rehabilitation for Children Using Narcotics**

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**Abstract.** *Narcotics circulation has spread in all walks of life. The rampant circulation and abuse of narcotics is recognized by many as a very dangerous threat to the younger generation, especially children. With the issuance of Act No. 35 of 2009 regarding Narcotics, is expected to be able to prevent and suppress the increase in circulation and use of narcotics in the territory of Indonesia. The purpose of this writing is to find out how the process of implementing rehabilitation for children who use narcotics and what are the obstacles in the process of implementing this rehabilitation. This paper uses a type of normative juridical research method by maximizing the case approach and the law approach. The results of this study show that the rehabilitation process consists of 5 (five) stages, namely the intake process, detoxification, entry, primary stage, and re-entry stage. The implementation of rehabilitation also encountered obstacles such as ignorance of the community as a whole and uncooperative narcotics abusers.*

*Keywords: Children; Narcotics; Rehabilitation.*

### **1. Introduction**

Narcotics abuse has long been entered and known in the State of Indonesia, this can be seen from the issuance of the Presidential Instruction of the Republic of Indonesia (INPRES) Number 6 of 1971 to the Head of the National Intelligence Coordinating Agency (BAKIN) to address six prominent national problems, one of which is overcoming abuse narcotics. Gradually narcotics abuse became a serious problem, therefore during the New Order era the government issued a

regulation in the form of Act No. 22 of 1997 as amended to become Act No. 35 of 2009 concerning Narcotics.<sup>1</sup>

Abuse of narcotics is already in a condition that it is quite concerning, almost all people from ties, to guitar players on the side of the road, educated to lay people, university students to junior high school students become drug abusers. They tend to make Narcotics a lifestyle or trend. It is not surprising that various analyzes predict that there will be lost generations or generations lost due to narcotics in the future.<sup>2</sup>

This issue becomes so important considering that drugs (narcotics) are substances that can damage the physical and mental health in question, if the user is without a doctor's prescription. The abuse of narcotics, psychotropics and other addictive substances has recently been increasing in Indonesia. According to Act No. 35 of 2009 concerning Narcotics Article 1 point 1 explains that: "Narcotics are substances or drugs derived from plants or not plants, both synthetic and semi-synthetic which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can cause dependence, which are differentiated into groups as attached to this law."

Act No. 35 of 2009 concerning Narcotics has given different treatment to narcotics abusers, before this law came into force there was no different treatment between narcotics users, dealers, dealers and producers. The increasing number of narcotics addicts among children and adolescents makes the role of rehabilitation in curing dependence for narcotics addicts very important. The effectiveness of rehabilitation to cure victims of narcotics is urgently needed, considering the difficulty of victims or drug users to be freed from narcotics dependence individually. Narcotics users or addicts on the one hand are perpetrators of crimes, but on the other hand they are victims.<sup>3</sup> Every narcotics abuser for those who use the provision the punishment is regulated in article 127 of Law no. 35 of 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.

Provision of rehabilitation for narcotics abusers is considered necessary to suppress the use of narcotics and illegal drugs. Given that currently the number of children and adolescents as victims of drug abuse continues to increase. Even though in this case the child is often said to be a victim, it is still said in the laws

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<sup>1</sup> Makaro, Suhasril, Zakky, (2005), *Narcotics Crime*, Bogor: Ghalia Indonesia, p. 19

<sup>2</sup> Mashuri Sudiro, *Islam Against Narcotics*, (Yogyakarta: Madani Pustaka, 2002), p. 7

<sup>3</sup> Adi, Kusno. *Diversion as an Alternative Effort to Overcome Narcotics Crime by Children*, Malang: UMM Press, 2009, p. 3.

and regulations as a crime. Protection of children is not only protection from crimes committed by other people against children, but also includes crimes committed by children themselves, in this case social deviation, one of which is drug abuse.

Children who commit criminal acts under the applicable criminal law in Indonesia must be held accountable for his actions. Child perpetrators are still underage, so the law enforcement and punishment processes applied to children are carried out specifically, considering their age is included in the underage category.<sup>4</sup> Article 1 Paragraph (3) of Act No. 11 of 2012 Concerning the Juvenile Criminal Justice System defines that a "child in conflict" with the law, hereinafter referred to as a child, is a "child who is 12 (twelve) years old, but not yet 18 (eight) years old." fifteen) years who are suspected of committing a crime."

Handling cases of children who have conflicts with the law, the condition of children must always be considered because the characteristics of children are clearly different from adults. All because if you look at the psychological state and the nature of the child, in some ways the child must receive specific treatment and special protection as well.<sup>5</sup> For the settlement of crimes committed by children usually use a diversion settlement. According to Article 1 Paragraph (7) of Act No. 11 of 2012 concerning the Juvenile Criminal Justice System it is stated that diversion is the transfer of settlement of child cases from the criminal justice process to processes outside the criminal justice. Children as narcotics users, of course, rehabilitation efforts are a form of diversion in order to realize restorative justice. This sentencing alternative was pursued as an effort to protect the future of children who are victims of narcotics abuse.

The Narcotics Law provides an explanation that "Abuse is a person who uses narcotics without rights or against the law. Children as narcotics abusers are just victims." So it is inappropriate if the state gives harsh punishments with and equated between children who abuse narcotics and real adult criminals (narcotics dealers).<sup>6</sup>

The real form of the state to provide protection to children has been regulated in Act No. 35 of 2014 concerning Amendments to Act No. 23 of 2002 concerning Child Protection. As contained in Article 59 paragraphs (1) and (2) as follows:

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<sup>4</sup>Gosita, Arif, Child Protection Issues, Bandung: Mandar Maju, 2009, p. 43.

<sup>5</sup>Maskur, Muhammad A. (2012). Legal protection for juvenile delinquency in Indonesian criminal proceedings. *Pandecta: Research Law Journal*, Vol.7, (No.2), pp.171-181.<https://doi.org/10.15294/pandecta.v7i2.238>

<sup>6</sup>Harefa, B. (2017). Legal Protection for Children as Narcotics Abusers in the Juvenile Criminal Justice System in Indonesia. *Perspectives*, Vol.22, (No.3), pp.222-230.[http://dx.doi.org/10.30742/pers\\_pektif.v22i3.647](http://dx.doi.org/10.30742/pers_pektif.v22i3.647)

(1)The government, regional government and other state institutions have an obligation and responsibility to provide special protection for children.

(2)Special Protection for Children as referred to in paragraph (1) is given to:

- Child in an emergency situation;
- Children who are in conflict with the law;
- Children from minority and isolated groups;
- Children who are economically and/or sexually exploited;
- Children who are victims of abuse of narcotics, alcohol, psychotropics and other addictive substances;
- Children who are victims of pornography;
- Children with HIV/AIDS;
- Child victims of abduction, sale and/or trade;
- Child victims of physical and/or psychological violence;
- Child victims of sexual crimes;
- Child victims of terrorism networks;
- Children with Disabilities;
- Child victims of abuse and neglect;
- Children with deviant social behavior; And
- Children who are victims of stigmatization from labeling are related to the condition of their parents.

The problem of narcotics has roots and has succeeded in destroying all levels of society who use it. Children, adolescents, and adults can become victims of narcotics abuse. Children who abuse narcotics consist of several factors that are not necessarily seen as a contemporary phenomenon and law enforcement must be involved in suppressing narcotics abuse cases. Therefore, rehabilitation is

here with the aim of providing protection for addicts and victims of narcotics abuse so that later they will be given the opportunity to recover and return to their normal activities as before in society.

Rehabilitation was chosen because rehabilitation is a form of effort that is considered humane. Where during this rehabilitation period not only put emphasis as a form of recompense so that a deterrent effect arises for the actions that have been committed, rehabilitation offers a variety of positive benefits and helps to be free from drug addiction. Rehabilitation is also a proportional choice with the aim of avoiding the application stage of a criminal sanction which is synonymous with mere punishment.<sup>7</sup>

The description above discusses the Juvenile Criminal Justice System, Diversion, Child Protection. However, there are still few who explore more deeply about rehabilitation. So in writing this article, the author by conducting studies in accordance with the relevant provisions and regulations will explain the rehabilitation of children who abuse narcotics.

## **2. Research Methods**

The method used in this research is normative law research, namely research that is based on a set of norms that apply in society and becomes a reference for legal behavior for everyone. The focus of normative legal research is on the inventory of positive law, legal principles and doctrine, legal findings in in concreto cases or court decisions, legal systematics, legal synchronization, comparative law and legal history.<sup>8</sup> Types of normative or doctrinal legal research. Doctrinal comes from the word "doctrine" which means principle, legal principle, which is adhered to.<sup>9</sup> Analysis of legal material in this study was carried out by analyzing descriptive and prescriptive analysis which departed from systematic interpretation combined with historical and comparative interpretation.

## **3. Results and Discussion**

### **3.1. Implementation of Rehabilitation for Children Using Narcotics**

Act No. 35 of 2009 concerning Narcotics explains Rehabilitation in Article 4 Letter D which explains guarantees for rehabilitation efforts, both medical

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<sup>7</sup>Cahyaningtyas, I. (2018). Penal Meditation of Treatments for Children in the Juvenile Justice System. *Diponegoro Law Review*, Vol.3, (No.2)

<sup>8</sup>According to Abdulkadir Muhammad, legal research is divided into three, namely normative legal research, normative-empirical legal research, and empirical legal research. In Abdulkadir Muhammad, *Law and Legal Research*, Cet I, Bandung: PT. Citra Aditya Bakti, 2004, p. 52

<sup>9</sup>Bryan A Garner, *Black's Law Dictionary* 9th Ed. USA : Thomson West. 2009, p. 553

rehabilitation and social rehabilitation for narcotics addicts and abusers. Furthermore, it is also regulated in Government Regulation Number 25 of 2011 concerning the Implementation of Compulsory Reporting for Narcotics Addicts and the most recent is the Regulation of the Minister of Health of the Republic of Indonesia Number 4 of 2020 concerning Organizing Institutions for Receiving Compulsory Reporters. These two additional regulations form the backbone of the rehabilitation implementation handled by IPWL (Compulsory Report Receiving Institution).

Rehabilitation of narcotics addicts is a process of treatment for free addicts from dependence, and the period of undergoing rehabilitation is counted as a period of serving a sentence. Rehabilitation of narcotics addicts is also a form of social protection that integrates narcotics addicts into social order so that they no longer abuse narcotics.

As for the Types of Rehabilitation or the term rehabilitation in Act No. 35 Years 2009 concerning Narcotics consists of 2 (two), namely:

1. Medical rehabilitation namely the process of treatment activities in an integrated manner to free addicts from narcotics dependence, according to Article 1 number 16 of Act No. 35 of 2009 concerning Narcotics.
2. Social Rehabilitation namely the process of recovery activities in an integrated manner both physically, mentally and socially, so that former narcotics addicts can return to carrying out social functions in people's lives, in accordance with Article 1 number 17 of Act No. 35 of 2009 concerning Narcotics.

Rehabilitation is the best way and is considered the most humane effort. Where in rehabilitation, the term of imprisonment is not only used as a form of retaliation with the ultimate goal of creating a deterrent effect, but rather that punishment must provide other benefits for the suspect and the accused as it is today according to modern legal thinking.

The implementation of rehabilitation for narcotics abusers, who in practice are called residency, runs for a period of approximately 6 (six) months to 1 (one) year, depending on the level of exposure of the abuser to the substances contained in the narcotics he consumes. The following is the process of implementing rehabilitation stages:

### **1. Intake Process**

*intake processis* the beginning for a resident in undergoing the rehabilitation stage, the resident must be examined first in terms of physical, mental and supporting examinations. At this stage the resident will also discuss and receive questions which will later appear as a referral given to the resident in the next rehabilitation process. Usually the intake process is carried out within 1 (one) day.

## **2. Medical rehabilitation stage (detoxification)**

At this stage, the addict is examined for all his health, both physically and mentally and mentally by a trained physician. It is the doctor who decides whether the addict needs to be given certain drugs to reduce the withdrawal symptoms he is suffering from. Drug administration depends on the type of drug and the severity of withdrawal symptoms. In this case the doctor needs sensitivity, experience, and expertise to detect the symptoms of drug addiction. The rapid detoxification stage is the most effective stage because the resident will be injected with drugs that have painful side effects for the resident. This detoxification stage takes 2 (two) weeks.

## **3. Entry (Orientation)**

This stage is the third stage, the resident is given an explanation and given directions to adapt to the environment and regulations applied by the rehabilitation center. This stage is carried out within 2 (two) weeks.

## **4. Primary Stage**

*Primary Stage* consists of 3 main phases that must be carried out by residents, the first phase is the younger phase, the second is the middle phase, and the third is the older phase. The total of the Primary Stage stage will be carried out within 4 (four) months.

## **5. Re-Entry Stage**

This fifth stage is called the re-entry stage and this stage is divided into three parts, namely A, B, and C. In stage A, residents will be asked to carry out an interest and aptitude test, discussion seminars or outbound with the aim of preparing the resident's mental confidence, and training in compiling a plan. Phase A is carried out for 1 (one) week. Next is stage B, which is held for one week. The activities carried out in stage B are focused on implementing the plans that have been prepared in stage A and accompanied by a counselor. Evaluation should also be carried out in stage B after carrying out the implementation of the plan. In stage B, residents

may get visits from family. The last stage is stage C which carries out the overall evaluation, and given post-rehabilitation socialization programs. At stage C, residents are also allowed to get visits from family and go home to stay with their families. If the entire rehabilitation process is carried out properly, then the time required is approximately 6 (six) months.

Residents must undergo all of the stages above, but some residents undergo a rehabilitation process of more than 6 (six) months. This happens because the rehabilitation process returns to the resident himself and goes through a process of assessment, evaluation and seeing the willingness of the resident himself to recover.<sup>10</sup>

### **3.2. Factors Inhibiting the Implementation of Rehabilitation for Children who Use Narcotics**

The process of implementing the rehabilitation of children who abuse narcotics is not as easy as turning the palm of the hand. In practice, there are problems that become obstacles in the process of implementing rehabilitation in technical and non-technical terms, especially in rehabilitation for children who abuse narcotics. The following obstacles were found in the process of implementing rehabilitation for children who abuse narcotics, including:

1. The lack of overall public education regarding rehabilitation, the rehabilitation process and the assumption that the rehabilitation process is only intended for adult narcotics offenders. So, from the community's interpretation of this matter, it has an impact on efforts to protect the law given to children not running optimally. These obstacles are proven and there are rules in accordance with the provisions (Article 128 Paragraph (1) of the Narcotics Law) which reads: "Parents or guardians of addicts who are not old enough as referred to in Article 55 paragraph (1) who deliberately do not report, shall be punished with criminal maximum imprisonment of 6 (six) months or a maximum fine of IDR 1,000,000.00 (one million rupiah)."
2. Non-cooperative resident candidates in the integrated assessment stage carried out by the Integrated Assessment Team. In the event that the prospective resident is not cooperative, answers to questions that are not in accordance with the interview questions asked by the assessment team sometimes appear, resulting in a little difficulty in the assessment and often spending a longer duration of time than usual in this initial stage.

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<sup>10</sup>Risya Hadiansyah, Nur Rochaeti, Implementation of Rehabilitation for Narcotics Abusing Children, Journal of Indonesian Law Development Master of Law Program, Faculty of Law Volume 4, Number 1, Year 2022, pages 6-10



3. Limited number of human resources (HR) in the process of implementing rehabilitation. This makes rehabilitation work not run optimally as it should, but this lack of human resources does not reduce their sense of professionalism in helping residents to free themselves from the bondage of addictive substances contained in narcotics.

4. Limited and lack of adequate rehabilitation facilities, especially in remote areas in Indonesia. Because of the detoxification rehabilitation process, there are those who need qualified facilities and these are not widely available in remote areas.

#### **4. Conclusion**

The non-cooperative resident candidates in the integrated assessment stage also made it difficult for the integrated assessment team. Another obstacle found was the limited number of human resources (HR) in the rehabilitation process, furthermore, namely limited and lack of adequate rehabilitation facilities as well as budget constraints and the impact on rehabilitation sites that are unable to accommodate a larger number of residents who will undergo the rehabilitation process . The non-cooperative resident candidates in the integrated assessment stage also made it difficult for the integrated assessment team. Another obstacle found was the limited number of human resources (HR) in the rehabilitation process, furthermore, namely limited and lack of adequate rehabilitation facilities as well as budget constraints and the impact on rehabilitation sites that are unable to accommodate a larger number of residents who will undergo the rehabilitation process.

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