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## Rehabilitation As A Punishment For Narcotics Addicts

**Asmak-ul-Hosna<sup>1</sup>**

**Faculty of Law, Pakuan University, Bogor, Indonesia<sup>1</sup>**

**asmakulhosnah@gmail.com<sup>1</sup>**

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**ABSTRACT**

*Narcotics abuse is increasingly alarming with the trend increasing year by year. Narcotics abuse has a negative impact on addicts / users both on physical and mental health, because a victim or a sufferer is difficult to stop and be cured. Efforts to eradicate drugs through severe penalty was not effective in reducing drug abuse perpetrators. Therefore, rehabilitation through Rehabilitation as punishment for both medical rehabilitation and social rehabilitation for both drug addicts and narcotics users is needed, in order to recover the user's circumstances, also aims to avoid users repeating drugs again. The research method used is a normative research method.*

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### INTRODUCTION

Young generation coaching is basically an effort to prepare the nation's cadres are dynamic, skilled and responsible. For the success of the guidance there needs to be a preventive and counter measures (repressive and continuous repression and rehabilitation) provided by the government against various problems that could damage the image and personal of the younger generation and other social systems. The victims of drug abusers are the ones who desperately need help, not only from the medical field, but also moral support from all parties, both from family, friends, and the environment where drug abusers live. The influence of drug use can change attitudes and behavior drastically, due to impaired perceptions of thinking power, creations and emotions, resulting in deviant behavior and inability to live a reasonable life. Drugs damage the brain tissue, nerves, psychological to kill people slowly.

Rehabilitation is an attempt to help, treat and repair victims of drug abusers in certain institutions so that victims are expected to return to the community or work and learn properly. In an effort to heal and restore the conditions of drug abuser victims, all parties must cooperate in the recovery of victims. Addicts or drug users are not the same as dealers, but are victims of drug crime, therefore addicts must be cured with the support of affection from family or from friends, both during rehabilitation and post-rehabilitation, it is important to make the addict / victim not tempted to do it again. Efforts to eradicate drug abuse (addiction / dependence or victim) conducted by law apparatus so far by demanding severe punishment (aspect of guard) in order to suppress the rate of increase, without doing rehabilitation as mandated by Narcotics Act, was ineffective so it needs to be studied repeated. It is therefore necessary to rehabilitate both medical rehabilitation and social rehabilitation of victims or drug users, in order to recover the user's circumstances, in addition to aims to prevent users from repeating drugs again.

According Soejono Dirjosisworo, narcotics are substances that can cause a certain effect for those who use it by putting it into the body. Influence is in the form of anesthesia, loss of pain, stimulation of spirit and hallucinations or arising fantasies, these properties are known and put forward in the medical world, aims to be used for medicine and human interests such as surgery, pain relief and others. While Sumarna Haris said narcotics are substances or drugs derived from plants or not plants either synthetic or semi-synthetic that can cause decrease or change of consciousness, loss of taste, reduce to eliminate dependence.

Article 1 paragraph (1) of Law Number 35 Year 2009 Number 143 of LN RI mention narcotics are: Substances or drugs derived from plants or non-plants, both synthetic and semisynthetic, which may cause a decrease or change of consciousness, loss of pain and can cause dependence, distinguished into groups as attached in this law.

Mahi M. Hikmat, said rehabilitation is the healing of a person who is exposed to psychotropic hazards, whereas based on Big Indonesian Dictionary, rehabilitation is a restoration to the original state. According to Chaplin that rehabilitation is restoration (restoration, restoration) leads to normality or recovery toward a satisfactory state of an individual who has suffered.

The regulation of rehabilitation is set forth in Law Number 39 Year 2009 on Narcotics, State Gazette of the Republic of Indonesia Year 2009 Number 143.

Article 54 stipulates that addicts and victims of drug abusers should be rehabilitated

Article 103 of this law provides that:

The judge may decide and establish addicts and victims of drug abusers to undergo treatment and / or treatment, the duration of treatment and / or care is taken into account as the duration of the sentence.

Furthermore, in Article 127 it is stipulated that:

(1). Any Abuse:

- a. Narcotics class I for himself shall be punished with imprisonment for a maximum of 4 years,
- b. Narcotics Group II for himself shall be punished with imprisonment for a maximum of 2 years, and
- c. Narcotics class III for himself is sentenced to a maximum of 1 year.

(1) In deciding cases as referred to in paragraph (1), the judge shall observe the provisions as referred to in Article 54, Article 55 and Article 103,

(3). In the event that the abuser as referred to in paragraph (1) can be proven or proven as a victim of such abuser shall undergo medical rehabilitation and social rehabilitation.

For drug users / drug addicts who are still under the age of their family or guardians are given the opportunity to voluntarily report the situation. This can avoid prosecution, as set out in:

Article 128 paragraph (2) which reads:

Inadequate narcotics addicts, reported by their parent or guardian as referred to in Article 55 paragraph (1) (required to report to public health centers, hospitals, government-appointed rehabilitation for treatment) are not criminally charged. paragraph (3) which reads :

Ageful narcotics addict as referred to in Article 55 paragraph 2 (required to report to public health centers, hospitals, government-designated rehabilitation for treatment) undergoing medical rehabilitation 2 times of hospitalization and / or rehabilitation institution medical appointments of the government are not criminally charged. The goal of rehabilitation arrangements to encourage drug users and their families to voluntarily report to receiving institutions is obliged to report for treatment or rehabilitation so as to recover and not recur again. Likewise, law enforcement officers are expected to process drug users more oriented towards the rehabilitation punishment, so the number of drug abusers and / or drug addicts being rehabilitated can increase to more.

This is in line with Human Rights which in Article 25 paragraph (1) of the Human Rights Law provides that:

Everyone is entitled to an adequate standard of living for the health and well-being of himself and his family including the right to food, clothing, housing and health care as well as necessary social services and is entitled to guarantees when unemployed, sick, disabled, widowed or widowed, old age or other circumstances resulting in a deficiency which is beyond his control.

## METHOD

In the research implementation of rehabilitation of narcotics users, researchers conducted normative legal research. The source of secondary data comes from library research (Library research). Library

data which is the main data of this research is collected through systematic method in order to facilitate problem analysis. The dominant literature used is the library in the field of criminal law related to narcotics and the rehabilitation of narcotics users. In data processing, the secondary data obtained in the study is described in accordance with the subject matter and then analyzed through qualitative analysis to get the conclusion on the issues discussed.

## RESULTS AND DISCUSSIONS

Narcotics is a substance that when entered into the body will cause and affect the workings of the brain and includes material provided for in the law. Narcotics is an addictive substance that is actually useful for science and for medical treatment with a certain dose. However, if narcotics are used in doses that exceed the dose and in a sustainable time the narcotics will be a substance that is harmful to the work of human nerves and even narcotics can cause death.

The term narcotic in the medical world is known by the term "narcosis" or "narcosis" which means dibiutkan. Narcotics drugs are drugs used for anesthesia and surgery. While the pharmacology is the same as the "drug" is a kind of substance that when used will bring effects and certain effects on the body of the wearer.

The dangers and consequences of narcotics abuse may be private to the offender and may be a social hazard to society or the environment. Narcotic power does directly affect the wearer, but this influence is not limited to the person itself.

The use of narcotics is increasingly common in Indonesian society, and drug users are increasingly diverse, not only consumed by young people, but also by children and even the elderly. In 2011 in the international world it is estimated that between 167 and 315 million people (3.6 to 6.9% years) use narcotics at least once a year.

In Indonesia narcotics users tend to increase, it is seen from the results of research cooperation between BNN with Puslitkes Universitas Indonesia which shows the number of increasing abuse of narcotics from year to year. In the first half of 2013 narcotics abusers accounted for approximately four million people. By 2015 the number of narcotics abusers is estimated to reach 5.8 million people. A narcotic addict will make other addicts, because consciously or not an addict will attract his friend to become a drug addict as well.

Narcotics abuse is a serious problem that must be noticed and the solution is immediately solved. Many cases show how the consequences of the problem have caused many harm, both material and non-material. Narcotics abuse has a negative impact on addicts / users on both physical and mental health. Moreover, abusers as victims or people with the disease difficult to stop and be cured without any rehabilitation efforts medical and social care. Victims of abuse are not only the responsibility of parents and family, but also the responsibility of society, government, nation and state.

Efforts to eradicate narcotics abusers (addictions / dependence or victim) committed by law enforcement officers so far by demanding severe punishment (aspect guard), in order to suppress the rate of increase without rehabilitation as mandated by the narcotics law, was ineffective so it needs to be reviewed. This is evident from the results of research conducted BNN cooperation with Puslitkes University of Indonesia which shows the number of narcotics abuse from year to year has increased. The increasing of narcotics perpetrator caused not to reach the purpose of punishment, this is proven by the occurrence of over capacity in prisons, as data of SMSlap and SDP Ditjenpas as of April 28, 2014, that

- the number of prisoners and detainees in Indonesia as many as 164,066 people,
  - the number of prisoners and drug custody of 67,786 people with the following details:
    - The number of drug prisoners is 48,087 people consisting of:
      - manufacturer 945 people (1.97%),
      - 5,293 people (11%),
      - links 21,229 people (44.15%),
      - 2,294 persons (4.77%),
      - users 18,326 people (38.11%),
- while the number of drug prisoners was 19,699 people.

From the data it is seen that 41.32% are inmates and drug prisoners and 11.17% are users. Misuse of narcotics for the user / victim causes the loss of both social losses that is ostracized by the environment, economic losses, because with the addiction requires funds that are not small to meet the desire, and future losses because by consuming narcotics can cause damage to the head nerves that cause users / the victim lost some of his memory.

Narcotics addicts are also human beings who have the same rights as other human beings namely the right to get health care to restore physical and mental condition in the original state.

The Herbert L. Packer Due Process The Model (DPM) theory is well suited for rehabilitation of narcotics addicts, because this theory aims to improve the offender, as well as rehabilitation related to the action / treatment of addicts because rehabilitation of narcotic addicts is an integrated process of treatment to free the addict from dependence. It is in accordance with the purpose of punishment referred to in the theory that is to provide care and remedial action in lieu of punishment. In addition to the theory of DPM, was born a theory of social defense that developed after the second world war, which is a form of social protection that integrates drug addicts into social order in order not to abuse drug abuse.

Crime is inseparable from the ongoing processes and socioeconomic structures and coordinates the forms of attitudes and behaviors of citizens, in which the processes and social experiences of citizens. As a human act that violates the norms of life, evil is a social problem, that is, the problem in the midst of society, where the perpetrators and victims are members of society as well. According to Lidya Harlina Martono, rehabilitation is a recovery phase that covers physical, spiritual and educational aspects. This is in line with the opinion of Dadang Hawari who said that rehabilitation is an effort to restore and restore the condition of former drug abuse / narcotic dependence in healthy sense of physical, psychological, social and spiritual / religious (faith).

Law Number 35 Year 2009 on Narcotics, State Gazette of the Republic of Indonesia Year 2009 Number 143,

Article 103 states:

(1) A judge who checks a narcotic addict may:

- a. To terminate to order the concerned person to undergo treatment and / or treatment through rehabilitation if the narcotics addict is found guilty of committing a narcotic crime; or
- b. Determine to order the concerned person to undergo treatment and / or treatment through rehabilitation if the narcotics addict is not proven guilty of committing a narcotic crime.

(2) The period of treatment and / or treatment for narcotics addict as referred to in paragraph (1) letter a shall be calculated as a period of serving sentence.

Article 54 states:

Narcotics addicts and narcotic abuse victims are required to undergo medical rehabilitation and social rehabilitation.

Article 55 states:

- (1) Parents or guardians of drug addicts who are not old enough to report to public health centers, hospitals and or government-appointed medical rehabilitation and rehabilitation institutions for treatment and / or treatment through medical rehabilitation and social rehabilitation.
- (2) Adequate narcotics addict shall report to the community health center, hospital and / or medical rehabilitation institution and social rehabilitation appointed by the government to obtain treatment and / or treatment through medical rehabilitation and social rehabilitation.
- (3) Provisions concerning the implementation of compulsory report as referred to in paragraph (1) and paragraph (2) shall be regulated by Government Regulation.

Article 56 states:

- (1) Medical rehabilitation of narcotic addicts shall be conducted in hospitals designated by the Minister.
- (2) Certain rehabilitation institutes organized by government agencies or communities may undertake the rehabilitation of narcotic drug addicts after the Minister's approval.

Article 57 states:

In addition to medical treatment and / or rehabilitation, healing of narcotic addicts can be organized by government agencies or communities through a religious and traditional approach.

Article 58 states:

The social rehabilitation of former narcotics addicts is organized both by government agencies and by the public.

From the above provisions it is clear that the drug user is not punished, because the narcotic drugs especially those already in the addiction stage are considered as victims who should be rehabilitated both medically and socially. This is reinforced by the issuance of the Supreme Court Circular (SEMA) Number 4 of 2010 which confirms that drug addicts caught red-handed by police investigators and National Narcotics Agency (BNN) investigators and proven to be users and not proven to be involved in illicit drug trafficking, may impose penalties for medical and social rehabilitation at designated rehabilitation sites.

SEMA Number 3 of 2011 determines the period of rehabilitation of medical and social for addicts or victim for 1 year 1 month.

The obligation to undergo rehabilitation for drug abusers is intended to reduce the number of consumers or the market share of drugs in Indonesia is increasing, so that later expected to occur a balance between supply and demand factors. The policies and strategies undertaken by BNN to reduce the demand for narcotics are to rehabilitate all addicts, improve community immunity, and improve community empowerment efforts. The strategy is to reduce the number of narcotics availability through efforts to eradicate or enforce the law against the network of narcotics syndicates. In addition, the purpose of rehabilitation of narcotics abuse is to provide guarantees for the handling of victims of narcotics abuse through legal aspects, medical aspects, social aspect, spiritual aspect in order to restore narcotics abusers as protection against victims of narcotics abusers.

Explicitly in the Criminal Procedure Code is also regulated on the rehabilitation of this matter. There is an arrangement in Article 21 paragraph (4) letter a which states: Such detention may only be imposed on a suspect or defendant committing a trial or providing legal assistance in the offense in the event that the offense is punishable by imprisonment of five years or more.

Elucidation of Article 21 paragraph (4) letter b states that: "Suspect or defendant narcotics addict as far as possible be detained in a certain place which is also a place of care." This may mean that the addict may be given a rehabilitation act as punishment but the punishment is in the form of treatment in order to repair and restore his condition as before and not to repeat his actions again.

Jose Mario Costa former UNODC executive director says Law enforcement that does not integrate with social reintegration of users, causes them to become drug syndicate warriors. The government's commitment to the care of drug users / victims through rehabilitation, it is expected that users and their families voluntarily report themselves to the Reporting Recipient Institution (IPWL) to obtain treatment or rehabilitation so that it can recover and not recur again. Law enforcement officers in processing drug users more oriented to the punishment rehabilitation. In spite of it is expected that the number of users who follow rehabilitation is increasing. In line with this, former President Susilo Bambang Yudhoyono said, "They have lost their past and present, lest they also lose their future".

## **CONCLUSION AND SUGGESTION**

Rehabilitation of users or victims of narcotics abuse is needed cooperation and strong commitment from various parties both family, community and government. This is in addition to aiming to improve the victims to be healthy again, but also to avoid any repetition resulting from the imposition of criminal that has been applied, and to reduce the increasing circulation of narcotics in Indonesia.

However, in the National legal system, there are still less friendly arrangements with rehabilitation, as evidenced by the existence of rules that still impose criminal penalties on the user and as long as Article 127 paragraph (1) has not been removed the threat of imprisonment still haunts the users, because Article 127 paragraph (1) of Law Number 35 Year 2009 concerning Narcotics stipulates that the user as a perpetrator of a criminal offense must therefore be convicted.

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