

## Analysis of the Application of Medical Rehabilitation and Social Rehabilitation on Convicted Narcotics Abuse Convicts

Indrawienny Panjiyoga<sup>1)</sup> & Amad Sudiro<sup>2)</sup>

<sup>1)</sup> Faculty of Law, Tarumanagara University, Jakarta, E-mail: [indrawiennyp@gmail.com](mailto:indrawiennyp@gmail.com)

<sup>2)</sup> Faculty of Law, Tarumanagara University, Jakarta, E-mail: [ahmads@fh.untar.ac.id](mailto:ahmads@fh.untar.ac.id)

**Abstract.** *The importance of the implementation of rehabilitation for narcotics users is not merely to replace the sentence period, but rehabilitation is intended for narcotics users to cure them from addiction to be free from their dependence on narcotics. The problems faced in this study are how the rehabilitation arrangements for narcotics users based on Law No. 35 of 2009 concerning Narcotics and how the application of medical rehabilitation and social rehabilitation for convicted narcotics abusers in the case of Decision Number 582/Pid.Sus/2021/PN.Jkt.Br. The research method used in this writing is normative juridical research. The results show that Law No. 35 of 2009 concerning Narcotics pays special attention to rehabilitation efforts for narcotics users. This is based on the understanding that drug abuse is a health and social problem that requires special handling, not merely a legal problem. Law No. 35/2009 has provided a strong legal umbrella for the implementation of rehabilitation for people who use drugs. However, there are still many challenges that must be overcome in order for the rehabilitation program to run effectively. In general, based on Law No. 35/2009 on Narcotics, specifically Article 54, every drug addict is required to undergo medical and social rehabilitation. This rehabilitation aims to restore the physical and mental condition of drug users and restore their function in society.*

**Keywords:** *Application; Convicts; Medical Rehabilitation; Social Rehabilitation.*

### 1. Introduction

Indonesia is a nation that upholds the principle of the rule of law, where law serves as the supreme authority, acting as the primary framework that governs the functioning of the country, often referred to as a legal state. As outlined in "Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia

(commonly referred to as the 1945 Constitution),” it is established that Indonesia is a nation governed by the rule of law.

The establishment of law in Indonesia aims to bind and realize order and justice. The purpose of the law is to promote justice and provide benefits for the community. In addition, law in Indonesia is a means of driving that can be accepted as a living and developing system in society, as a result, the application and enforcement of the law cannot be considered forceful.

Prior to the 2000s, Indonesia only functioned as a transit hub for these illegal goods. However, more and more Indonesia has developed into a market or consumer of illegal drugs from time to time. It continues to be one of the countries that produces narcotics and other illicit drugs today. Drug use and trafficking are on the rise in Indonesia, as the majority of narcotics smuggling occurs through water. Indonesia, as a maritime nation, has become a hub for the distribution of narcotics and other illicit drugs, largely due to the widespread misuse of illegal substances such as narcotics, psychotropics, and other addictive drugs. Indonesia is now a country with a drug emergency status <sup>1</sup>.

As is known, narcotics abuse in Indonesia has escalated to an alarming and dangerous level, affecting people across all segments of society. Actually, narcotics are only used for medical purposes; Opium is the most common form, because it is readily available, opioids are essential in the medical and health fields. However, if used in excess, they can have negative effects, requiring strict supervision and management <sup>2</sup>.

Along with the soaring narcotics circulation in Indonesia, where Indonesia has sought a series of legislative steps to stop and investigate drug abuse crimes. The ratification of “Law No. 35 of 2009 concerning Narcotics (hereinafter abbreviated as the Narcotics Law)” is proof of how serious the Indonesia government is in dealing with the problem of drug use. The Narcotics Law has regulated "efforts to eradicate narcotics crimes through the threat of fines, imprisonment, life imprisonment, and the death penalty and regulates the use of narcotics for medical and health purposes as well as regulating medical and social rehabilitation".

However, difficulties have arisen as a result of the formulation and implementation of the Narcotics Law. The spirit of eradicating narcotics is only focused on reducing narcotics trafficking. However, it appears that less significant consideration has been given to the effects of narcotics use, especially from the perspective of addicts and drug users. The drafting of the law or its content is where the cause of the current problem lies.

---

<sup>1</sup> Anton Sudanto, “Penerapan Hukum Pidana Narkotika Di Indonesia,” *ADIL: Jurnal Hukum* 8, no. 1 (2017): 137–161.

<sup>2</sup> Kusno Adi, “Kebijakan Kriminal Dalam Penanggulangan Tindak Pidana Narkotika Oleh Anak” (2009).

Narcotics use is often linked to criminal activity, as it is believed to have a negative impact and leads users to engage in unlawful behavior. In the context of Indonesia, the question of whether narcotics use constitutes a crime is not a matter of public debate. The use of drugs for reasons other than health (medical) needs has been interpreted as illegal behavior in Indonesia society. The numerous regulations that have emerged to address narcotics serve, at the very least, as evidence supporting the classification of narcotics use as a crime. The Narcotics Law highlights that, while narcotics can be valuable for medical purposes and scientific progress, they also have the potential to cause severe addiction if misused.

Drug abusers who undergo rehab receive treatment in an effort to stop their addiction, and the procedure itself is akin to undergoing a sentence. Rehabilitation refers to the restoration of limbs that have specific limitations, such as disaster victims or hospital patients, to help them become valuable members of society. One of the government's strategies to combat drug use is rehabilitation. Article 54 of the Narcotics Law regulates this <sup>3</sup>.

It is believed that the Narcotics Law does not create a type of criminal law that can really combat the problem of narcotics, especially with regard to the rules that regulate punishment for drug addicts and abusers, which is a problem that exists at the stage of formulation or formation of laws. However, the focus of law enforcement, especially police and prosecutors, is largely on punishing those involved in the narcotics trade, including dealers, addicts, and drug users.

Substance users fundamentally sufferers of drug abuse who have breached regulatory measures. They are Indonesian citizens who are anticipated to contribute to the nation's development and overcome challenges in nearly all areas <sup>4</sup>. Regarding drug abuse, criminal policies should be adopted to ensure that drug dealers are treated as victims and not as criminals. The implementation of a rule can be known by checking whether these rules are followed. The Narcotics Law has established distinct treatment for narcotics abusers. Prior to the enactment of this law, there was no differentiation Among consumers, distributors, and maker of narcotics.

The effectiveness of rehabilitation in helping victims recover from narcotics is essential, given the challenges they face in overcoming addiction on their own. While drug users or individuals with addiction are, from one perspective, offenders of lawbreaker activities, they are also, on the other hand, victims of their circumstances <sup>5</sup>. Every narcotics abuser is subject to the criminal provisions outlined in "Article 127 of the Narcotics Law." This article states that narcotics

---

<sup>3</sup> R A ALFAJRIYAH FZ, "Pelaksanaan Rehabilitasi Sebagai Upaya Penanggulangan Tindak Pidana Narkotika (Studi Pada Loka Rehabilitasi Kalianda)" (2017).

<sup>4</sup> Moh Taufik Makarao, "Suhasril Dan Moh. Zakky," *Tindak Pidana Narkotika* (2003).

<sup>5</sup> Kusno Adi, "Diversion as an Alternative Effort to Overcome Narcotics Crime by Children" (Malang: UMM Press, 2009).

offenders may receive prison sentences, while narcotics addicts and individuals affected by substance abuse are directed to medical and social rehabilitation centers.

The rehabilitation framework for narcotics addicts demonstrates a criminal law policy designed to deter drug abusers and addicts from continuing their substance misuse. Rehabilitation serves as a suitable alternative to incarceration for narcotics addicts, which should be supported by implementing regulations that accommodate the rights of narcotics abusers and addicts<sup>6</sup>. Conceptually, medical rehabilitation focuses on restoring the physical and mental condition of prisoners through medical assistance, while social rehabilitation emphasizes the restoration of social functions so that prisoners can return to live productively in the community<sup>7</sup>. The integration of these two approaches is anticipated to lower relapse rates and enhance the quality of life for former inmates after they have completed their sentences. However, the reality shows that there is a gap between legally regulated policies and their implementation in the field.

The policy of depenalization for narcotics abusers aligns with Instructions from the head of state, the President. This policy allows individuals affected by narcotics abuse or addiction to receive support in the form of rehabilitation and guidance aimed at achieving a better quality of life. This solution is more suitable than incarcerating addicts or victims in correctional facilities. The enforcement of criminal law through incarceration for individuals affected by narcotics abuse has shown ineffective, as the number of individuals incarcerated for drug abuse continues to rise each year.

By stipulating that the judge overseeing a case involving a narcotics addict can render a rehabilitation ruling as outlined in Article 103, the Narcotics Law has implicitly shifted the paradigm to recognize that narcotics addicts are not solely offenders but also victims of their own substance abuse. In the “Supreme Court Circular Letter (SEMA) Number 4 of 2010 concerning the Placement of Narcotics Abuse,” The placement of drug abuse victims and addicts in medical and social rehabilitation facilities is emphasized as an important factor for judges to consider when imposing rehabilitation sanctions. This is outlined in provision number 3, letter a, which states that:

*In the event that the judge imposes a penalty in the form of an order to carry out legal action in the form of rehabilitation of the defendant, the panel of judges must clearly and clearly designate the nearest place of rehabilitation in his decision.*

---

<sup>6</sup> Dina Novitasari, “Rehabilitasi Terhadap Terhadap Anak Korban Penyalahgunaan Narkoba,” *Jurnal Hukum Khaira Ummah* 12, no. 4 (2017): 917–926.

<sup>7</sup> (Jainah & Anggara, 2023)

Based on the opinion of the “Joint Regulation of the Chief Justice of the Supreme Court of the Republic of Indonesia, Minister of Law and Human Rights of the Republic of Indonesia, Minister of Health of the Republic of Indonesia, Minister of Social Affairs of the Republic of Indonesia, Attorney General of the Republic of Indonesia, Chief of the National Police of the Republic of Indonesia, Head of the National Narcotics Agency of the Republic of Indonesia” in relation to the treatment of narcotics addicts and victims of narcotics abuse in rehabilitation institutions, narcotics abusers may be subject to criminal sanctions in the form of rehabilitation. The enforcement of rehabilitation sanctions can be applied if, during the arrest, evidence is found showing narcotics possession within a specified weight limit, as determined by applicable regulations. Additionally, the suspect or defendant must possess an Assessment Letter from the Integrated Assessment Team to gain admission to a medical or social rehabilitation institution authorized as a specialized facility<sup>8</sup>.

This serves as the background for the issues discussed in this writing, where addicts and individuals who misuse narcotics, when apprehended by the police, are subject to “Article 112, paragraph (1) of the Narcotics Law.” As a result, it creates legal uncertainty regarding the existence of rehabilitation centers and criminal prosecutions. The stipulations of Article 112, Paragraph (1) are considered to have a wide scope of application, implying that anyone associated with narcotics is affected, both dealers and addicts can be charged under this article, because it is stated “very clearly” in the Explanation of the Narcotics Law, it is believed that the elements referred to in it are too general and not specific to whom.

As a result, many people who are proven to be drug users are allegedly as if they were narcotics dealers, by being sentenced to prison as in the case of traffickers. Such a practice deviates from the intent and objectives of the Narcotics Law<sup>9</sup>. There are rehabilitation efforts in the Narcotics Law so that every narcotics abuse no longer depends on or is detached from the snares of narcotics, so it can be said that the implementation of law enforcement in eradicating narcotics crimes can still be said to be less than optimal. Although the article on the implementation of rehabilitation has been regulated, in the implementation of law enforcement it is still very rare, which gives the impression of selective felling in its implementation. Thus, it remains essential to examine whether the execution of rehabilitation programs for narcotics users aligns with the Narcotics Law and the standards outlined in the relevant articles. In practice, law enforcement officials have not consistently enforced the obligations specified in “Article 54 of the Narcotics Law,” which mandates rehabilitation for narcotics users, leading to perceptions that its implementation is still suboptimal.

---

<sup>8</sup> Hafied Ali Gani, “Rehabilitasi Sebagai Upaya Depenalisasi Bagi Pecandu Narkotika” (Brawijaya University, 2015).

<sup>9</sup> Dr Anang Iskandar and S IK, *Politik Hukum Narkotika* (Elex Media Komputindo, 2021).

This can be proven as happened in the case of the West Jakarta District Court Decision Number 582/Pid.Sus /2021/PN.Jkt.Brt. Where this case began on Thursday, April 15, 2021 at around 03:00 WIB, located at Jalan Benda Dalam No. 64A Rt. 10/01 Cianjur Village, Jagakarsa District, South Jakarta. Jeff Smith is suspected of unlawfully cultivating, maintaining, possessing, storing, or supplying the initial batch of narcotics in the form of plants.

Heru Haryanto together with Agung Setiadi and Bagus Kresnadi as members of the West Jakarta Metro Police Narcotics Task Force received information from an informant that there was a man in the jurisdiction of the West Jakarta Metro Police who often abused marijuana-type narcotics. After receiving this information, Heru Haryanto and his team then rushed to conduct an investigation, then Heru Haryanto and the team immediately approached the man who was later identified as Mark Jeffrey Smith alias Jeff Bin Milton Carry Smith (deceased), where at that time the defendant was with his friend named Dimas Haryo Prabowo, and after that Heru Haryanto informed the intention of coming with the team to Jeff Smith's residence to conduct a search, After a search in the car, evidence was found in the form of narcotics of the type of dried marijuana leaves scattered under the second row of seats, then the marijuana was collected and put into a plastic clip and after being weighed with a gross weight of 0.52 grams, then 1 (one) plastic containing tobacco with a gross weight of 44 (forty-four) grams was found again from the backpack which at that time the position of the bag was in the trunk of the car. After a search of the witness, Heru Haryanto and the team managed to find evidence in the form of 2 (two) bottles containing *liquid vape* liquid which was suspected to be synthetic marijuana liquid which was on the table in the defendant's bedroom at that time, in addition to that 6 (six) packs of papyrus paper in a black box of the Zippo brand and 2 (two) cangklongs/tools for smoking tobacco from the wardrobe of the defendant's room were also confiscated, and also confiscated 4 (four) books entitled the first book "Hikayat Pohon Ganja", the second book "The World in Ganja", the third book "Strategy of the Cannabis Circle Movement of the Archipelago", the fourth book "Criminalization of Ganja" which the entire book was on the speaker in the defendant's bedroom, and all the evidence the defendant admitted was his, then the defendant together with the witness Dimas Haryo Prabowo along with the evidence were taken to the West Jakarta Metro Police.

As explained in (SEMA) No.04 of 2010, there are at least 5 conditions for a narcotics abuser to get a rehabilitation decision. The defendant Jeff Smith was detained with circumstances and evidence that met the conditions for an abuser to get a rehabilitation verdict as stipulated in SEMA No.4 of 2010, but the fact is that in the case of drug abuse with the defendant on behalf of Jeff Smith was sentenced to 5 (five) months in prison instead of a rehabilitation verdict.

Based on the case mentioned above, it is evident that rehabilitation is not being conducted in accordance with Article 54 of the Narcotics Law. The significance of implementing rehabilitation for narcotics users goes beyond merely substituting the prison sentence; its primary goal is to help narcotics users recover from their addiction and dependence on these substances. The involvement of the BNN in the assessment team is a crucial aspect of addressing narcotics addiction. According to the Narcotics Law, BNN functions as part of the investigative body, giving it greater authority over narcotics-related offenses compared to the police.

Therefore, in the implementation of criminal justice within the framework of eliminating narcotics crimes, firmness is needed from law enforcement officials, namely BNN together with the state police ranks as the front line in handling criminal cases in this case narcotics crimes, so that it is hoped that narcotics users will receive punishment in accordance with what should be stated in *the a quo* law. Narcotics users should be treated fairly without compromising the rights of the perpetrators. Even so, there must be real efforts by relevant stakeholders in efforts to overcome narcotics crimes, because even being sentenced to prison does not have a deterrent effect.

Based on the information presented above, the author is motivated to conduct legal research, leading to the chosen title: "**Analysis of the Application of Medical Rehabilitation and Social Rehabilitation on Convicted Narcotics Abuse Convicts (Case Study of Decision Number 582/Pid.Sus /2021/PN.Jkt.Br)**".

The research focuses on examining the implementation of medical rehabilitation and social rehabilitation programs for prisoners involved in drug abuse in correctional institutions. The main issues raised in this study include how the rehabilitation arrangements for narcotics users are regulated in "Law No. 35 of 2009 concerning Narcotics," as well as how the application of medical rehabilitation and social rehabilitation for prisoners of narcotics abuse in the case of "Decision Number 582/Pid.Sus/2021/PN.Jkt.Br."

## 2. Research Methods

The research approach employed in this legal study is normative or doctrinal legal research<sup>10</sup>. Normative or doctrinal legal research involves systematically explaining the regulations that govern a specific legal category, analyzing the relationships between these regulations, outlining areas of difficulty, and making predictions about future developments. The focus of this research encompasses library resources or secondary data, which includes primary, secondary, and tertiary legal materials. The research specification employed in this study is

---

<sup>10</sup> Peter Mahmud Marzuki, "Penelitian Hukum (Jakarta: Kencana Prenada Media Group)" (Hal, 2011).

descriptive analytical, meaning it aims to describe the relevant laws and regulations connected to positive legal theories related to the issue being examined<sup>11</sup>. Data collection techniques are conducted through document or literature studies, which involve reviewing relevant written legal materials. The tool used for data collection is content analysis of legal documents and associated regulations. Data analysis in this study is conducted using qualitative methods, by explaining the concept of legal issues without using numerical data, through grouping and analyzing legal materials that aim to understand and solve the problems studied. The approach employed includes both a statutory approach and a case approach, analyzing relevant laws and court decisions with final legal authority, such as Decision Number 582/Pid.Sus/2021/PN.Jkt.Br, to provide a comprehensive understanding.

### 3. Results and Discussion

#### 3.1. Rehabilitation Arrangements for Narcotics Users Based on Law No. 35 of 2009 concerning Narcotics

Rehabilitation is a method aimed at helping victims of narcotics users overcome their dependence. It is an initiative to assist narcotics users in recovering from drug addiction, enabling them to return to a normal, physically and mentally healthy life. This process allows them to adapt and enhance their skills, knowledge, intelligence, and social interactions within their community or with their families, a process known as resocialization. In narcotics crimes, law enforcement against narcotics users is rehabilitation. Implementing rehabilitation for narcotics users is a more effective method for decreasing the rate of narcotics abuse compared to imprisonment. If narcotics users participate in rehabilitation programs, it is expected that they will overcome their dependence and refrain from using narcotics in the future.

Narcotics users are deviant behaviors that occur a lot in the community. Narcotics users can be said to be victimless crimes (*Victimless Crime*). Robin Fletcher, a crime without a victim (*Victimless Crime*) does not mean this crime does not produce victims; rather, the perpetrator is the victim of their own actions. Crimes without victims or what is criminologistly called *Crime without Victim* This is very difficult to identify because the perpetrators can commit a crime very secretly, because it is very difficult to eradicate the crime. The term essentially pertains to the nature of the crime, which involves two parties engaging in illegal transactions or actions, where the party committing the acts does not perceive any loss incurred by the other party<sup>12</sup>. When sentencing a narcotics user, it is essential to consider Article 103 of the Narcotics Law, which empowers the judge to mandate rehabilitation for a narcotics user if they are

---

<sup>11</sup> (Sumitro, 1994)

<sup>12</sup> Sutarto Sutarto, "Penerapan Rehabilitasi Medis Dan Rehabilitasi Sosial Terhadap Korban Penyalahgunaan Narkotika Ditinjau Dari Teori Pidanaan Relatif," *Jurnal Penegakan Hukum Indonesia* 2, no. 1 (2021): 115–135.



found guilty of a narcotics offense. Additionally, the law allows for rehabilitation if the user is not proven guilty of committing a narcotics crime. This indicates that narcotics users, while being offenders, are also victims of their own actions (Victimless Crime), highlighting the need for an alternative punishment to imprisonment specifically, rehabilitation.

Criminal construction in Indonesia adheres to “*a double track system*,” in terms of narcotics crimes, the penal system used is imprisonment and rehabilitation, so that a narcotics user who has been convicted as a narcotics user, both narcotics addicts and victims of narcotics abuse can undergo rehabilitation as an alternative to their sentence. According to Article 54 of the Narcotics Law, narcotics addicts and victims of narcotics abuse must participate in medical and social rehabilitation. Article 103 of the Narcotics Law gives the judge the authority to order addicts and victims of narcotics abuse as defendants to undergo rehabilitation through their verdict if they are proven guilty of abusing narcotics.

In essence, rehabilitation in this case, according to the author, based on data and facts found academically and in practice is crucial. Referring to the literacy sources that the author found, what is still a problem in the implementation of rehabilitation is that there are still the same cases with different verdicts or different cases with the same verdict. This proves that the implementation of rehabilitation is still not an important thing to be implemented, so that the rules or articles that regulate the obligations and implementation of rehabilitation seem to be just a display.

Regarding the factor that there are still recidivists in narcotics crimes, especially as narcotics users, be it narcotics addicts, victims of narcotics abuse and narcotics abusers. Regarding the existence of recidivists in narcotics crimes, he explained that nothing can fully guarantee that narcotics users who have carried out rehabilitation programs will no longer repeat their mistakes. The factors that usually cause narcotics users to become recidivists are stress and depression that trigger the desire of narcotics users who have undergone rehabilitation to use narcotics again.

In classifying a person as a narcotics addict, the Supreme Court has issued the Supreme Court Circular Letter No. 4 of 2010 concerning the Placement of Abuse Victims, Victims of Abuse, and Narcotics Addicts into Medical Rehabilitation and Social Rehabilitation Institutions (hereinafter referred to as SEMA No. 4 of 2010) as a judge's consideration in deciding cases in narcotics crimes and classifying narcotics users in accordance with the conditions that have been regulated in number 02 SEMA No. 4 of 2010. The issuance of SEMA No. 04 of 2010 is a breakthrough from the Supreme Court against narcotics abuse by using an approach that prioritizes the interests of public health. Departing from the conditions that have been regulated in SEMA No.4 of 2010, it is a paradigm reference that must be applied by law enforcement officials in classifying victims

of narcotics abuse, narcotics addicts, and narcotics abusers. Then in determining a person to be a narcotics addict, they must undergo an assessment process by the medical team by going through several stages of medical examination, which is then followed by *screening* through the legal team.

In the rehabilitation of narcotics addicts during the judicial process, individuals may be placed in medical and social rehabilitation institutions. The authority to assign them to these institutions rests with investigators, public prosecutors, or judges, depending on the stage of the examination, and is contingent upon receiving recommendations from a medical team following an initial assessment process. To emphasize this, Article 13 paragraph 4 of Government Regulation of the Republic of Indonesia Number 25 of 2011 concerning the Implementation of Mandatory Reporting of Narcotics Addicts (hereinafter referred to as Government Regulation No. 25 of 2011) and Supreme Court Circular Letter Number 03 of 2011 concerning the Placement of Victims of Narcotics Abuse in Medical Rehabilitation and Social Rehabilitation Institutions (hereinafter referred to as SEMA No. 03 of 2011) with the intention of emphasizing the placement of victims of narcotics abuse and addicts narcotics into rehabilitation institutions during the judicial process to carry out medical rehabilitation and social rehabilitation for a minimum period of time during the judicial process until the determination in accordance with number 6 of SEMA No. 03 of 2011. The issuance of SEMA No. 03 of 2011 by the Supreme Court is guided by Article 113 of the Narcotics Law and Article 13 of Government Regulation No. 25 of 2011 which explains the mandatory requirements for carrying out medical rehabilitation and social rehabilitation.

In accordance with what has been regulated in Article 13 paragraph 3 of Government Regulation No.25 of 2010, it is expressly regulated that a narcotics addict can carry out a rehabilitation program during the judicial process. Then by paying attention to Article 13 paragraph 4 of Government Regulation No.25 of 2010 explaining the authority in its implementation at the request of investigators from the public prosecutor or judges in accordance with the level of examination after getting a recommendation from the team of doctors, it also applies to victims of narcotics abuse in accordance with Article 13 paragraph 5 of Government Regulation No.25 of 2010. Similar to Narcotics Addicts, the obligation to carry out rehabilitation by Victims of Narcotics Abuse has also been regulated in several regulations. Victims of narcotics abuse are required to carry out rehabilitation because basically victims of narcotics abuse are people who consume narcotics due to forced efforts, deceived, deceived, forced, and/or threatened to consume narcotics. In determining a person as a victim of narcotics abuse, investigators will carry out an assessment conducted by the Integrated Assessment Team (TAT) conducted by the Legal Team and the Medical Team. The Integrated Assessment Team (TAT) in classifying a person as a Victim of Narcotics Abuse still refers to SEMA No.4 Number 2010 which has

provided criteria for a person who is worthy of undergoing the rehabilitation process.

In cases where rehabilitation is conducted voluntarily without going through the legal process, it is carried out through mandatory reporting to a Mandatory Reporting Institution (IPWL) as outlined in Government Regulation Number 25 of 2010 (PP No. 25 of 2011) regarding the Mandatory Reporting of Narcotics Addicts. Article 1, Section 1 of Government Regulation No. 25 of 2011 states that mandatory reporting involves self-reporting by narcotics addicts who are of legal age, or by their families, parents, or guardians for those who are underage, to the designated institution, which is required to report them for treatment and/or care through medical and social rehabilitation. Furthermore, Article 1, Section 2 defines the Mandatory Reporting Recipient Institution (IPWL) as a public health center, hospital, or any medical and social rehabilitation facility designated by the Government. The objectives of mandatory reporting for narcotics addicts are detailed in Article 2 of Government Regulation No. 25 of 2010.

From the description provided, it is evident that Law No. 35 of 2009 concerning Narcotics explicitly identifies rehabilitation as a key component in addressing the drug issue in Indonesia. This perspective acknowledges that drug abuse is a multifaceted health and social challenge, rather than merely a legal matter.

Law No. 35 of 2009 concerning Narcotics places significant emphasis on rehabilitation initiatives for narcotics users. This focus arises from the recognition that narcotics abuse is a multifaceted health and social issue, so the approach is not only limited to law enforcement, but also needs rehabilitation efforts to recover users and prevent recidivists. Rehabilitation is an important part of efforts to overcome narcotics abuse. Law No. 35 of 2009 has provided a strong legal umbrella for the implementation of rehabilitation. However, achieving optimal results requires collaboration among various stakeholders, including the government, the community, and healthcare professionals.

### **3.2. Analysis of the Application of Medical Rehabilitation and Social Rehabilitation to Convicted Narcotics Abuse in the Case of Decision Number 582/Pid.Sus/2021/PN.Jkt.Brt**

Law No. 35 of 2009 concerning Narcotics addresses rehabilitation, which is categorized into two types: medical rehabilitation and social rehabilitation, as outlined in Article 54 "Narcotics addicts and victims of narcotics abuse are obliged to undergo medical rehabilitation and social rehabilitation". Medical rehabilitation involves a comprehensive treatment process aimed at liberating addicts from drug dependence. In contrast, social rehabilitation is a holistic recovery process that addresses physical, mental, and social aspects, enabling former narcotics addicts to reintegrate and fulfill their roles within the community.

As stated in Article 13, paragraph (3), narcotics addicts undergoing judicial proceedings may be placed in medical and/or social rehabilitation institutions. Article 13, paragraph (4) grants Investigators, Public Prosecutors, and Judges the authority to determine the placement of suspects and defendants in these rehabilitation facilities during the judicial process. In accordance with Article 13, paragraph (2), the roles of investigators and public prosecutors in this process involve providing recommendations, which are further supported by the Doctor Team's recommendations for the Judge's determination regarding placement in medical and social rehabilitation institutions. These recommendations are subsequently included as part of the case file. Based on the description above, Law No. 35 of 2009 and Government Regulation No. 25 of 2011 establish a pivotal role for the Judge, particularly concerning the placement of individuals in medical and social rehabilitation institutions throughout the investigation, prosecution, and trial processes, ultimately resulting in a formal determination. Narcotics abuse encompasses three primary groups of offenders: First, producers, which include both national and international networks; Second, distributors, who fall into two categories: those linked to producer networks and independent distributors commonly referred to as couriers; Third, users, representing individuals from all sectors of society. These three groups are interconnected and form a complex network that is challenging to disentangle<sup>13</sup>. Law No. 35 of 2009 concerning Narcotics, stipulates in Article 7, that "Narcotics can only be used for the purpose of health services and/or the development of science and technology." According to this provision, narcotics can be used and/or utilized as long as their application serves the interests of healthcare services or contributes to the advancement of science and technology<sup>14</sup>.

Law No. 35 of 2009 concerning Narcotics places a strong emphasis on rehabilitation for narcotics users, including those who have undergone judicial proceedings. This rehabilitation is an effort to restore physical and mental health, as well as reintegrate individuals into society. It is clear that medical and social rehabilitation is an integral part of efforts to combat drug abuse. With effective implementation, rehabilitation can help restore the lives of drug users and reduce the negative impact of drug abuse on society.

The implementation of rehabilitation in the Narcotics Law is the main aspect in eradicating the problem of narcotics abuse. Narcotics users, when viewed from a health aspect, are people who suffer from chronic narcotics addiction, while when viewed from a legal aspect, they are perpetrators of criminal acts that can be handled by being subject to sanctions in the form of rehabilitation so as not to repeat the same act. Both from health and legal aspects, the implementation of

---

<sup>13</sup> Harris Y P Sibuea, "Kedudukan Pengguna Narkotika Dan Kesiapan Fasilitas Rehabilitasi Bagi Penyalahguna Narkotika Berdasarkan Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika," *Negara Hukum* 6, no. 1 (2015).

<sup>14</sup> Chartika Junike Kiaking, "Penyalahgunaan Narkotika Menurut Hukum Pidana Dan Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika," *Lex Crimen* 6, no. 1 (2017).

rehabilitation for narcotics abuse aims to cure narcotics users so that they can escape from addiction caused by narcotics abuse. Therefore, the Narcotics Law specifically and expressly guarantees and regulates efforts to carry out medical rehabilitation and social rehabilitation for perpetrators of narcotics abuse. This is emphasized in Article 4 of the Narcotics Law which has stated the purpose of the establishment of the Narcotics Law which can be described as follows: <sup>15</sup>

1. Guaranteeing the accessibility of narcotics for the purpose of health care and/or advancing science and technology;
2. Preventing, safeguarding, and rescuing the Indonesian nation from the misuse of narcotics;
3. Eliminate the illegal distribution of narcotics and their precursors; and ensure the organization of medical and social rehabilitation initiatives for those affected by narcotics abuse.
4. Guaranteeing the organization of medical and social rehabilitation programs for narcotics abuse.

Regulations related to the rehabilitation of drug abusers are regulated in several regulations, namely: "Supreme Court Circular Letter (SEMA) Number 4 of 2010 concerning Placement of Victims of Abuse, Victims of Abuse and Narcotics Addicts into Medical Rehabilitation and Social Rehabilitation Institutions, Supreme Court Circular Letter (SEMA) Number 3 of 2011 concerning Placement of Victims of Narcotics Abuse into Medical Rehabilitation and Social Rehabilitation Institutions, Government Regulation (PP) Number 25 of 2011 concerning the Implementation of Mandatory Reporting of Narcotics Addicts to obtain therapy and rehabilitation services, Regulation of the Minister of Health of the Republic of Indonesia Number 80 of 2014 concerning technical guidelines for the implementation of medical rehabilitation for addicts, abusers, and victims of narcotics abuse who are in the process of investigating the investigation, prosecution and judiciary or have received a court decision, Decree of the Minister of Health (kepmenkes) Number 1305/menkes/SK/VI/2011 which appoints 131 Mandatory Reporting Agencies (IPWL) in 33 Provinces, Joint Regulation of the Chief Justice of the Supreme Court of Indonesia, Minister of Law and Human Rights of Indonesia, Minister of Health of Indonesia, Attorney General of the Republic of Indonesia, Chief of the National Police of the Republic of Indonesia, Chief of the National Narcotics Agency of the Republic of Indonesia Number 01/PB/MA/III/2014, Number 03 of 2014, Number PER-005/A/JA/03/2014, Number 1 of 2014, Number PERBER/01/III/2014/BNN concerning the Handling of Narcotics Addicts and Victims of Narcotics Abuse into Rehabilitation Institutions. "

---

<sup>15</sup> Iskandar and IK, *Politik Hukum Narkotika*.

The implementation of medical and social rehabilitation for narcotics abuse victims, based on criminal law theory, originates from the issuance of Law No. 35 of 2009 and SEMA Number 4 of 2010, which require the provision of medical and social rehabilitation for individuals involved in narcotics abuse. This is intended so that perpetrators of narcotics abuse no longer have a dependence on narcotics and subsequently do not reuse them. There is a clear difference between narcotic abusers and can be proven through the assessment process or testing of narcotic users which shows whether there is a high dependence on narcotic or vice versa. This is as referred to in Law No. 35 of 2009 which was later clarified by the Circular Letter of the Supreme Court of the Republic of Indonesia (SEMA RI) Number 4 of 2010).

As it is known that the drug abuse case on behalf of the defendant Jeff Smith was arrested with evidence of marijuana, inting paper, cangklong, and reading books with the theme of marijuana plants, and tested positive for marijuana use based on the results of the urine test, based on the evidence and the condition of the defendant who tested positive for marijuana, the defendant has at least met the requirements to be able to get a Rehabilitation decision as described in SEMA No. 04 2010. However, the fact is that in the case of drug abuse the defendant was sentenced to 5 (five) months in prison instead of a rehabilitation verdict, the sentence of 5 (five) months in prison against the defendant Jeff Smith was decided in the "decision of the West Jakarta District Court Number 582/Pid.Sus/2021/PN. West Jakarta".

The basis for the juridical consideration of the panel of judges to impose a prison sentence instead of a rehabilitation penalty in the West Jakarta District Court decision number 582/Pid.Sus/2021/PN West Jakarta, that: The judge has independent freedom in considering the severity of the prison sentence against the verdict he handles. In the West Jakarta District Court Decision Number: 582/Pid.Sus/PN West Jakarta, the judge sentenced the defendant in the form of a criminal sentence of 5 (five) months in prison based on the legal basis of Article 127 paragraph (1) letter a of the Narcotics Law.

The elements and legal considerations of the judge in the Decision are as follows:

1. Elements of Every Abuser: In Article 7 in conjunction with Article 8 of the Republic of Indonesia Law No. 35 of 2009 on Narcotics, it is stated that narcotics may only be used for health purposes and/or scientific research. Class I narcotics are strictly prohibited from being used for purposes other than healthcare services. Therefore, the defendant who has consumed methamphetamine meets the element of "every abuser".
2. Narcotics Elements Group 1 (one): the examination carried out proves that it contains 1 ml of yellow liquid with a net weight of 1.1500 grams and a bottle containing 8 ml of yellow liquid with a net weight of 9.1500 grams, does not contain Narcotics and Specotropics but contains Nicotine and Propylene Glycol attached in the Attachment to Law of the

Republic of Indonesia Number 35 of 2009 concerning Narcotics, Thus the element of "narcotics group n 1 (one)" has been fulfilled.

3. Element For himself, the defendant consumed dried marijuana leaves, tobacco and methamphetamine where the defendant felt the effects of the Class 1 Narcotics in the form of body freshness and did not feel sleepy, so from the facts presented by the Panel of Judges believed that the element "for himself" had been fulfilled.

Decision Number 582/Pid.Sus/2021/PN West Jakarta. The basis for the judge's juridical consideration in imposing the prison sentence on the defendant Jeff Smith can be found, namely the existence of witness statements, as well as the defendant's confession that he used narcotics of his own volition and was not under the influence, pressure, coercion, and threat from any party.

Based on this juridical consideration, the judge sentenced the defendant to imprisonment because the judge considered the defendant based on this juridical consideration not as a victim of narrotical abuse but only as an abuser.

Judges have the discretion to interpret legal provisions in cases brought before them in court, including the authority to interpret the mandatory minimum sentencing provisions in narcotics laws. This authority is reflected in the judge's decisions, as outlined normatively in Law No. 48 of 2009 on Judicial Power <sup>16</sup>.

In Decision Number 582/Pid.Sus/2021/PN West Jakarta, the judge in his consideration stated that based on the testimony of witnesses, the Defendant's confession, that the Defendant was not someone who used marijuana in a state of dependence both physically and psychologically, and in using marijuana the Defendant was not because he was persuaded, deceived, deceived, coerced, and/or threatened to use narcotics, but because initially it was a prank, then the purpose was only to increase stamina, So based on these considerations. The Panel of Judges is of the opinion that the Defendant is only an abuser, so there is no need to undergo medical rehabilitation and social rehabilitation.

Based on the considerations of the panel of judges above, the panel agreed to classify the defendant not as a victim of narcotics abuse, but as a drug addict. Therefore, for these reasons and other considerations, including weighting considerations, the defendant Jeff Smith was sentenced to 5 months in prison and not a rehabilitation penalty. However, in this case, the author feels that the judge's decision does not have justice for the defendant, because in his verdict the defendant did not get justice.

As it is known that the defendant is classified as an addict and not a victim of narcotics abuse because of various facts in the trial that have been mentioned earlier, but the judge's decision to determine the defendant as an addict is and is

---

<sup>16</sup> Matheos Bastian Wattimena, Elsa Rina Maya Toule, and Julianus Edwin Latupeirissa, "Penerapan Ajaran Turut Serta Dalam Pertanggungjawaban Pelaku Tindak Pidana Narkotika," *TATOHI: Jurnal Ilmu Hukum* 2, no. 3 (2022): 262–271.

not an abuser is a mistake because when referring to Article 1 paragraph (15) of the Narcotics Law, it is known that the definition of a narcotics abuser is someone who uses narcotics illegally, then the definition of narcotics abuser in Article 1 number 13 of the Narcotics Law is a person who uses or abuses narcotics in a state of dependence.

Based on these two definitions, it can be concluded that narcotics addicts and narcotics abusers are essentially the same, it's just that addicts are abusive activities that are carried out repeatedly. A person can become a narcotics addict starting from narcotics abuse activities, which then because of the addictive nature of narcotics, it causes an addiction so that a person abuses repeatedly and then abuse behavior repeatedly because of this addiction is called an addict.

The reason the author mentioned that the panel of judges was wrong in classifying the actions committed by the defendant, because it stated that the defendant was an addict and not an abuser, even though if examined more deeply, then the abuser and addict are the same in essence and then the next is related to the 5 (five) month prison sentence imposed by the judge on the defendant, the author feels that the prison sentence is not the right punishment for the perpetrator of narcotics abuse, Because both narcotics abusers and addicts are victims of illegal narcotics trafficking, imposing a prison sentence on the defendant as a form of providing a deterrent effect is a wrong act, because the prison sentence for an abuser and/or addict cannot have any good effect on the perpetrator of narcotics abuse and will only give psychological disturbances to the perpetrator of abuse, Rehabilitation for narcotics abusers is the most appropriate step that can be taken because it can restore the condition of addiction from narcotics abusers.

Taking into account the aforementioned decision, the West Jakarta District Court judge denied the defendant's request for rehabilitation, reasoning that the defendant was merely an abuser and did not require medical or social rehabilitation.

#### **4. Conclusion**

Based on the description above, conclusions can be drawn:

1. Rehabilitation is a crucial initiative to address the issue of narcotics abuse. Through rehabilitation, narcotics users have the chance to heal and resume a normal life. "Law No. 35 of 2009" has granted a strong legal umbrella for the implementation of rehabilitation for narcotics users. However, there are still many challenges that must be overcome so that the rehabilitation program can run effectively.
2. There are still judges who consider it necessary to impose prison sentences on narcotics abusers. This is because in issuing a judge's decision, it must also be guided by three things, namely the juridical element which is the first and main element, the philosophical element centered on truth and



justice, and the sociological element, which is considering the cultural values that live and develop in society. On the other hand, related to the regulation of the imposition of rehabilitation decisions, the Narcotics Law has fully regulated the regulation of the imposition of rehabilitation in the provisions of Article 127 paragraph (2) and paragraph (3), Article 54, Article 55, and Article 103 of the Narcotics Law which was then described in SEMA Number 4 of 2010 concerning the placement of abusers, victims of abuse, and narcotics addicts to medical rehabilitation and social rehabilitation institutions. Then related to what is the basis for the juridical considerations of the panel of judges in imposing a prison sentence and not a rehabilitation sentence in the decision of the West Jakarta Court Number 582/Pid.Sus/2021/PN West Jakarta, in its consideration it considers that the defendant used narcotics consciously and was not under the influence, coercion, and threat from any party, so that the defendant was not included in the criteria for victims of narcotics abuse as intended in Article 54 of the Narcotics Law. Based on these considerations, the author concludes that the defendant was sentenced to 5 months in prison based on the provisions of Article 127 paragraph (1) of the Narcotics Law.

## 5. References

- Adi, Kusno. "Diversion as an Alternative Effort to Overcome Narcotics Crime by Children." Malang: UMM Press, 2009.
- — —. "Kebijakan Kriminal Dalam Penanggulangan Tindak Pidana Narkotika Oleh Anak" (2009).
- FZ, R A ALFAJRIYAH. "Pelaksanaan Rehabilitasi Sebagai Upaya Penanggulangan Tindak Pidana Narkotika (Studi Pada Loka Rehabilitasi Kalianda)" (2017).
- Gani, Hafied Ali. "Rehabilitasi Sebagai Upaya Depenalisasi Bagi Pecandu Narkotika." Brawijaya University, 2015.
- Iskandar, Dr Anang, and S IK. *Politik Hukum Narkotika*. Elex Media Komputindo, 2021.
- Kiaking, Chartika Junike. "Penyalahgunaan Narkotika Menurut Hukum Pidana Dan Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika." *Lex Crimen* 6, no. 1 (2017).
- Makara, Moh Taufik. "Suhasril Dan Moh. Zakky." *Tindak Pidana Narkotika* (2003).
- Marzuki, Peter Mahmud. "Penelitian Hukum (Jakarta: Kencana Prenada Media Group)." Hal, 2011.
- Novitasari, Dina. "Rehabilitasi Terhadap Terhadap Anak Korban Penyalahgunaan Narkotika." *Jurnal Hukum Khaira Ummah* 12, no. 4 (2017): 917–926.



Sibuea, Harris Y P. "Kedudukan Pengguna Narkotika Dan Kesiapan Fasilitas Rehabilitasi Bagi Penyalahguna Narkotika Berdasarkan Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika." *Negara Hukum* 6, no. 1 (2015).

Sudanto, Anton. "Penerapan Hukum Pidana Narkotika Di Indonesia." *ADIL: Jurnal Hukum* 8, no. 1 (2017): 137–161.

Sutarto, Sutarto. "Penerapan Rehabilitasi Medis Dan Rehabilitasi Sosial Terhadap Korban Penyalahgunaan Narkotika Ditinjau Dari Teori Pidanaan Relatif." *Jurnal Penegakan Hukum Indonesia* 2, no. 1 (2021): 115–135.

Wattimena, Matheos Bastian, Elsa Rina Maya Toule, and Julianus Edwin Latupeirissa. "Penerapan Ajaran Turut Serta Dalam Pertanggungjawaban Pelaku Tindak Pidana Narkotika." *TATOHI: Jurnal Ilmu Hukum* 2, no. 3 (2022): 262–271.