

Rehabilitation as a Form of Restorative Justice for Victims of First-Class Drug Abuse

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Abstract. *The widespread use and trafficking of illicit drugs can be traced back hundreds of years to the use of psychoactive drugs for religious and recreational purposes and the rise of chemistry and pharmacology in the late 19th century, when societies synthesized a variety of highly potent and highly addictive substances, such as coca and putau. It is difficult for drug addicts to stop using the drugs they use, so drug addicts continue to associate with drug dealers. Based on this view, addiction is a choice of the individual concerned therefore the most appropriate treatment is to rehabilitate the individual concerned. The second view is addiction as a disease which views addiction as a disease like physical and mental (psychological) diseases. Addicts here are considered victims of their illness and therefore need to be given help in the form of treatment or care to overcome their addiction. To help the author in finding the purpose of this writing, it is necessary to use a research method. Research Methodology is the science of methods that will be used in conducting a study, in this case the author will use the Socio-Research research method. Sociological Research, research that is conducted directly by taking a social approach to society, research by providing questions to sources that are considered relevant and have the capacity to answer questions from researchers and are able to defend the arguments given to researchers. Narcotics are basically substances or drugs that are useful in the field of medicine and scientific development. However, their inappropriate or unsupervised use can cause dependency and have negative impacts on individuals and the wider community. Drug abuse is included in the criminal acts regulated in Law Number 35 of 2009, which distinguishes between addicts and victims of abuse, and encourages perpetrators to undergo rehabilitation as a form of recovery.*

Keywords: *Conducting; Medicine; Scientific; Trafficking.*

1. Introduction

Indonesia, is a country that has a legal system with a fairly broad scope. The development of the era certainly encourages renewal and development in order to regulate new provisions that have not been regulated in legal products. Modernization also does not only bring positive impacts but also negative impacts on Indonesian society.¹The flow of globalization brings changes and new cultures to Indonesian society this also has an impact on the practice of criminal acts. Drug abuse is also a negative impact of the rapid flow of globalization. Drug abuse (narcotics and illegal drugs) is currently one of the very complex problems and is still happening massively in Indonesia.²In general, drug abuse is widespread and often found in young people, the next generation of the nation. Abuse of narcotics will result in drug dependence which will result in "periodic or chronic intoxication conditions resulting from repeated use of drugs (natural or synthetic).³

The widespread use and trafficking of illicit drugs can be traced back hundreds of years to the use of psychoactive drugs for religious and recreational purposes and the rise of chemistry and pharmacology in the late 19th century, when societies synthesized a variety of highly potent and highly addictive substances, such as coca and putau.⁴It is difficult for drug addicts to stop using the drugs they use, so drug addicts continue to associate with drug dealers. In fact, not a few victims are always involved in illegal trade because of the peak of desire and addiction to drugs. In psychology, drug addicts/users are called addiction as sin, addictive behavior is seen as behavior that deviates from moral and religious teachings. Based on this view, addiction is a choice of the individual concerned therefore the most appropriate treatment is to rehabilitate the individual concerned. The second view is addiction as a disease which views addiction as a disease like physical and mental (psychological) diseases.⁵Addicts here are considered victims of their illness and therefore need to be given help in the form of treatment or care to overcome their addiction.

¹Ahmad Fauzi, M. Noor Fajar Al Arif F. "The Right to Medical Rehabilitation of Drug Abuse as a Form of Legal Equality With Drug Addicts Undergoing Legal Process". *ProBono & Community Service Journal* 1, no 2 (2022): 39-46

²Intan Permata Sari, I Gusti Bagus Surwayan, I Nyoman Sudjana. "Law Enforcement Against Drug Addicts Narcotics". *Journal of Legal Analogy* 1, no 1 (2019): 104-109

³Rayani Saragih, Maria Ferba Simanjuntak's Editing. "Law Enforcement Against Drug Abuse In Indonesia". *Journal of Education Humanities and Social Sciences (JEHSS)* 4, no 1 (2021):98-105

⁴Gilang Fajar Shadiq. "Law Enforcement Against Criminal Acts of New Psychoactive Substances" Based on Law Number 35 of 2009 concerning Narcotics". *Juridical Insight* 1, no 1 (2017) :35-53

⁵Haposan Sahala Raja Sinaga. "Implementation of Restorative Justice in Narcotics Cases in Indonesia". *Journal Lex Generalis Law*2, no 7 (2021): 528-541

Handling of drug addicts, drug abusers, and victims of drug abuse is focused on rehabilitation efforts through comprehensive and accountable assessment mechanisms. Its implementation aims to protect existing human resources, but not all Abusers are sentenced to prison, but there is another option, namely rehabilitation. In the case of drug abusers, handling can be through rehabilitation, especially for drug addicts undergoing legal processes, Articles 54 and 56 regulated in the Narcotics Law have given addicts the obligation to undergo rehabilitation.⁶From medical and social rehabilitation that must be undergone by drug addicts which is expected to be able to make addicts healthy again, productive, free from criminal acts, and eliminate drug dependence. The period for undergoing rehabilitation is calculated as a substitute for prison sentences. Rehabilitation emphasizes the physical and mental recovery of drug users. Rehabilitation assistance for drug addicts and victims of drug abuse in Indonesia refers to the Joint Regulation on Handling Drug Addicts and Victims of Drug Abuse into Rehabilitation Institutions issued in 2014.⁷Rehabilitation assistance also refers to Law No. 35 of 2009 concerning Narcotics and Government Regulation No. 25 of 2011. Both of these regulations ensure that drug users receive the necessary rehabilitation services and are no longer placed as perpetrators of criminal acts. In line with this, drug abuse should pay attention to the implementation of restorative justice which emphasizes that someone who commits a criminal act does not necessarily end up in prison. In the concept of restorative justice, imprisonment should be present as the ultimum remedium or last resort used to provide punishment for criminals. However, the problem that will be studied in this study is related to how to determine whether a drug abuser can receive rehabilitation and also about the legal process for a drug abuser to be entitled to rehabilitation.

The illegal distribution of narcotics must also be considered with fast, responsive, and practical actions considering that illegal drugs can quickly move from one hand to another that is well organized, large funds, extensive networks, and with sophisticated technology. Illegal distribution can also harm individuals and society, especially the younger generation.⁸Talking about the distribution of illegal drugs, which used to be only through close relatives, can now be done even though it is far away, especially now that the online system is a priority in the modern era. Almost all countries in the world have declared war on the abuse of narcotics and consider it a serious crime, especially for producers,

⁶Ahmad Fauzi, M. Noor Fajar Al Arif F. "The Right to Medical Rehabilitation of Drug Abuse as a Form of Legal Equality With Drug Addicts Undergoing Legal Process". *ProBono & Community Service Journal* 1, no 2 (2022): 39-46

⁷PERMA No. 1 of 2014 concerning Handling of Narcotics Addicts and Victims of Narcotics Abuse Into the Rehabilitation Institution

⁸Liebmann, Marian, 2007, *Restorative Justice How It Works*, Jessica Kingsley Publishers, London and Philadelphia.

planting seeds, mixing illegally, and dealers or intermediaries.⁹The narcotics business which promises fast-increasing income has succeeded in influencing some domestic teenagers to produce, distribute, and trade narcotics in various types such as marijuana, ecstasy, crystal methamphetamine, morphine, heroin, and others. Although many people have been arrested, imprisoned, and all types of narcotics destroyed, there are still always future generations. This can happen because the business is a promising business without caring about the risk of being arrested or severely punished such as the death penalty.¹⁰

2. Research Methods

To help the author in finding the purpose of this writing, it is necessary to use a research method. Research Methodology is the science of methods that will be used in conducting a study, in this case the author will use the Socio-Research research method. Sociological Research, research that is conducted directly by taking a social approach to society, research by providing questions to sources that are considered relevant and have the capacity to answer questions from researchers and are able to defend the arguments given to researchers. is research using secondary data so that the sociological method is direct research in society, some through questionnaires or direct interviews¹¹ This research is a sociological legal research, therefore the type of data used by the author is primary data, namely data obtained or collected by researchers from available sources, by conducting direct observation studies in the field to collect legal facts that occur in the community. This method looks at how effective the law is and answers the legal needs required by the community. The approach taken is in the form of direct interviews with informants to be used as primary data sources.

3. Results and Discussion

3.1. Challenges in Implementing Restorative Justice for Victims of Drug Abuse

1) Opportunities in the Implementation of Restorative Justice for Victims of Drug Abuse

Narcotics are basically drugs or substances that are useful in the field of treatment and health services as well as the development of health science. The definition of narcotics in medical formacology according to the Indonesian Encyclopedia is a drug that can eliminate (especially) pain originating from the viresal area and which can cause stupor (dazed, still conscious but must be

⁹Zainab Ompu Jainah. 2015. Analysis of Criminal Liability for Intermediaries in the Sale and Purchase of Class I Narcotics (Case Study Number 1066/PID/B/2012/PN.TK). Progressive Justice Journal Vol. 6 No. 1.

¹⁰Dadang Hawari. 1996. The Islamic Concept of Combating AIDS and NAZA. Yogyakarta: Dana Bhakti Wakaf.

¹¹Soerjono Soekanto and Sri Mamudji, 1985. Normative Legal Research: A Brief Review, CV. Rajawali, Jakarta.

bluffed) and addiction.¹²On the other hand, narcotics can also cause dependency and very detrimental consequences if misused or used without strict control and supervision. Legal provisions regarding the prohibition of abuse, as well as illicit trafficking of narcotics and narcotic precursors in Indonesia are regulated in Law of the Republic of Indonesia Number 35 of 2009. Related to current developments regarding perpetrators of narcotics abuse, it shows a strong tendency for change in viewing drug addicts who are no longer seen as criminals, but as victims who must be given empathy, behavior that deviates from the norm will usually create a new problem in the legal field and harm society.¹³Drug users can be distinguished as drug addicts and victims of drug abuse. Drug addicts are people who use or abuse drugs and are dependent on drugs, both physically and psychologically, while victims of drug abuse are people who accidentally use drugs, because they are persuaded, tricked, deceived, forced and/or threatened to use drugs. Law number 35 of 2009 concerning narcotics explains that a drug addict and a victim of drug abuse must undergo rehabilitation, this is in accordance with article 54 of Law number 35 of 2009 concerning narcotics.¹⁴Rehabilitation is a form of restorative justice.

Narcotics Crimes are committed by using, distributing, or possessing narcotics illegally. Narcotics are substances or drugs derived from plants or non-plants, either synthetic or semi-synthetic, which can cause a decrease or change in consciousness, feelings, and affect the function of the brain and central nervous system. Narcotics Crimes are considered serious because they have the potential to damage the health, security, and welfare of the community. The following are some forms of violations that are included in Narcotics Crimes:

- 1) Storage and possession of narcotics: Collecting, storing, or possessing narcotics without a valid permit or without a doctor's prescription for certain medical purposes may be considered a violation of the law.
- 2) Distribution of narcotics: Buying, selling, providing, sending, delivering, transporting, moving or distributing narcotics intentionally without official permission is a criminal act.
- 3) Production or manufacture of narcotics: Processing or manufacturing narcotics either naturally or synthetically without official permission or valid permit is also a criminal act.

¹²Sasangka, H, 2003, *Narcotics and Psychotropics in Criminal Law*, Bandung: CV Mandar Maju, p. 37.

¹³Prasetya, D. D, 2017, *Legal Protection for Perpetrators and Victims of Narcotics Abuse*, Yogyakarta: Faculty of Law, Atma Jaya University, Yogyakarta, p. 53.

¹⁴Yuliana Yuli W, A. W, 2019, *Rehabilitation Efforts for Drug Addicts in the Perspective of Criminal Law*. ADIL: Journal of Law, 10(1), p. 4.

4) Use of narcotics: Using narcotics illegally or without a valid doctor's prescription, except in certain cases regulated by law, is also considered a criminal offense.

Penalties for Drug Crimes vary by country and jurisdiction, but can generally include large fines, prison sentences, or even the death penalty depending on the severity of the offense and the amount of drugs involved. Prevention, supervision, and rehabilitation efforts are also usually carried out to address drug abuse issues and to help perpetrators who are caught up in drug problems get back on the right track. In "Law Number 35 of 2009 concerning Narcotics" there is no specific definition of what is meant by a drug crime. This regulation only contains a formulation of what actions fall into the category of drug crimes. This regulation only provides a definition of narcotics, namely: "Article 1 number 1 of Law No. 35 of 2009 concerning Narcotics, narcotics are substances or drugs derived from plants or non-plants, either synthetic or semi-synthetic, which can cause a decrease or change in consciousness, loss of feeling, reduce to eliminate pain, and can cause dependence". From article 1 it is known that narcotics are drugs which are used as a medical action for certain diseases or used for the development of science. Narcotics are only used for treatment and scientific interests, thus any act other than for these interests is a crime (criminal act).¹⁵

Inappropriate general use of narcotics will result in the possibility of various side effects contained in the narcotics, namely:

- 1) Stimulants, which means stimulating activity in the central nervous system and speeding up mental processes or making more excited. The cause of stimulants can be due to consuming caffeine, nicotine, amphetamines or cocaine. For example, the use of methamphetamine.
- 2) Depressants, which means suppressing or reducing activity in the central nervous system, make users more relaxed and their awareness is reduced and even their heartbeat is getting weaker. This is due to the content of analgesics, alcohol, benzodiazepines and hard drugs such as heroin, morphine and methadone.
- 3) Hallucinogen, which means that the influence of drugs makes the user hallucinate. Drug users will experience a misperception of everything around them. They seem to see or hear something that is not actually there. This is triggered by consuming mescaline or marijuana.

In general, drug abuse can cause consequences and dangers in two ways, namely personal dangers for the user (abuser) and can be in the form of social/community dangers (Soedjono 1977). The dangers of drug abuse that are

¹⁵Supramono, G, 2001, Indonesian Narcotics Law, Jakarta: Djambatan, p. 42.

personal in nature can cause influences and effects on the user's body with the following symptoms:

- 1) Euphoria: a stimulus of joy that is not in accordance (balanced) with the reality and condition of the user's body. (usually this effect still occurs when using narcotics in doses that are not so large/large).
- 2) Delusion: a condition in which a drug user experiences decreased consciousness and anxiety which can cause disturbances in the user's body movements (usually when using a higher dose than in a state of euphoria).
- 3) Hallucination: is a condition where the person using narcotics experiences "delusions", such as seeing and hearing things that do not exist in reality.
- 4) Weakness: Weakness experienced physically or mentally or both.
- 5) Drowsiness: Decreased consciousness like a drunk person, confused memory, sleepy.
- 6) Coma: the condition of a narcotics user reaches the peak of decline which can ultimately lead to death.

Unlawful acts that are categorized as narcotics crimes consist of five categories, namely:

- 1) First Category; All acts involving possession, storage, control or provision of narcotics and narcotic precursors.
- 2) Category Two; All acts in the form of producing, importing, exporting or distributing narcotics and narcotic precursors.
- 3) Third Category; All acts in the form of offering for sale, selling, buying, receiving, being an intermediary in buying and selling, exchanging or handing over narcotics and narcotics presecutors.
- 4) Fourth Category; All acts in the form of carrying, sending, transporting or transiting narcotics and narcotics precursors.
- 5) Fifth Category; All acts of abuse of Class I, II and III narcotics for oneself.

From the five qualifications of drug abusers stated above, it can be seen that the fifth qualification, namely drug abuse for oneself, is not explicitly stated in Law Number 35 of 2009, but only explains several terms that have almost the same essence as drug abuse for oneself, including:

- 1) Drug addicts are people who use or abuse narcotics and are in a state of dependence on narcotics, both physically and psychologically (Article 1 number 13);

2) Abusers are people who use narcotics without permission or against the law (Article 1 number 15) Restorative Justice for Narcotics and Dangerous Drug Users.

3) A victim of abuse is someone who accidentally uses narcotics, because they are persuaded, tricked, deceived, forced, and/or threatened to use narcotics (Explanation of Article 54)

4) Former Drug Addicts are people who have recovered from their physical and psychological dependence on narcotics (Explanation of Article 58). e. Patients as people who based on medical indications can use, obtain, possess, store and carry narcotics class II and class III in limited quantities and certain preparations (Article 53).

In addition to the threat of criminal sanctions as regulated in Article 127, a drug abuser for himself in judicial practice is also charged with the formulation of Article 111 and/or Article 112 because when someone fulfills the elements of Article 127, of course, he also fulfills the elements in Article 111 and/or Article 112, namely the subjective element and the objective element which are alternative in nature, namely "possessing, storing, controlling" where this element does not have to be fulfilled in its entirety, but one of these elements is fulfilled, it is included in the category of this norm because the elements in this article are alternative. Logically, we can simply see that when someone abuses narcotics for himself, of course, an act has previously occurred that is related to the source of the goods he obtained. The wording of the related article as stated above, which in practice is often used for drug users, is as follows: Article 111

1) Any person who without right or against the law plants, maintains, owns, stores, controls, or provides Class I Narcotics in the form of plants, shall be punished with imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years and a fine of at least IDR 800,000,000.00 (eight hundred million rupiah) and a maximum of IDR 8,000,000,000.00 (eight billion rupiah). (2) In the case of the act of planting, maintaining, owning, storing, controlling, or providing Class I Narcotics in the form of plants as referred to in paragraph (1) weighing more than 1 (one) kilogram or more than 5 (five) tree trunks, the perpetrator shall be punished with imprisonment for life or imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years and a maximum fine as referred to in paragraph (1) plus 1/3 (one third). Article 112

2) Any person who without right or against the law possesses, stores, controls, or provides Class I Narcotics that are not plants, shall be punished with imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years and a fine of at least IDR 800,000,000.00 (eight hundred million rupiah) and a maximum of IDR 8,000,000,000.00 (eight billion rupiah). (2) In the case of acts of possessing, storing, controlling, or providing Class I Narcotics that are not plants.

Based on the description above, here are some important points in the law:

- 1) Types of Narcotics: The Narcotics Law classifies narcotics into several groups based on their potential danger and use. Narcotics groups consist of narcotics class I, II, III, and IV, with narcotics class I having the highest level of potential danger and unsafety.
- 2) Illegal Actions: The law prohibits all forms of production, abuse, storage, distribution, transportation, and possession of narcotics without valid permission from the authorities.
- 3) Penalties: The penalties stipulated in this law include the death penalty, life imprisonment, and prison sentences of varying lengths, depending on the severity of the crime and the type of narcotics involved.
- 4) Rehabilitation: The law also regulates rehabilitation efforts for drug abusers to help them return to society and a better life.
- 5) Treatment: There are special provisions for people with drug dependency that permit the use of certain narcotics in the context of medical treatment supervised by authorized medical personnel.
- 6) Control of Evidence: The law regulates the control, confiscation and examination of narcotics evidence in the context of investigating and prosecuting narcotics crimes.
- 7) Eradication of Narcotics Distribution: Legal regulations also regulate efforts to eradicate narcotics distribution and eradicate illegal practices related to narcotics, including efforts to stop distribution in Indonesian territory and border control.

Regarding the obstacles to the implementation of restorative justice in drug crimes in the field, as a researcher, I have conducted interviews or sought information related to these obstacles to the head of the drug crime division at the Gorontalo City Police Narcotics Unit, he explained regarding this, namely: "In the case of drug crimes, it is a case that is carried out by being caught red-handed, not through a report that is not based on strong evidence made by someone else to the police at the police station regarding drug use, and regarding the obstacles in the implementation of restorative justice, it can be said that there are no significant obstacles in the field, but most of the time in the arrest process, people who have been caught by the police do not admit that the goods or drugs are not theirs. And for the fact that at the time of the drug arrest, at least 2 community witnesses were present and to strengthen the witness, at least there were village officials at the scene when the arrest was made at that time, and it can be said that this is an existing obstacle ".

Based on the results of interviews conducted by the author with the head of the Semarang City BNN through several data questions that have been presented by the researcher, several answers were obtained that were quite strong for the author as a primary data source. Agus Rohmat's statement stated that the rehabilitation approach is more humane and effective in the long term. If only imprisoned, drug users do not get the addiction treatment they need. Many who are released return to using drugs. Rehabilitation offers comprehensive healing, including medical therapy, psychological therapy, as well as social and skills development. He continued that data in the field shows that Our data shows that the success rate of rehabilitation in various BNN rehabilitation centers reaches around 70%. This means that 7 out of 10 clients who undergo rehabilitation programs succeed in not relapsing within a two-year monitoring period. This is a much better figure compared to the recidivism rate of drug users who are only imprisoned.

He explained about the challenges faced by BNN in carrying out its task of rehabilitating victims of drug abuse, his statement The biggest challenge is the stigma of society. Many people still consider victims of drug abuse as "criminals" who deserve to be punished, not people who need help. As a result, after rehabilitation, they often have difficulty being accepted back into their families, jobs, and communities. In addition, there are limited rehabilitation facilities, especially in remote areas. Actually, the biggest challenge is not during rehabilitation at the rehabilitation center but rather the social process where labeling or the public's view of former drug users is less acceptable because they are considered criminals, so BNN's task is not only limited to the scope of physical and mental health rehabilitation but also the process of accepting society to assume that the victim is a person who is harmed and should be protected so that the act does not happen again.

Then how is the BNN process in introducing a rehabilitation process that is more optimal than imprisonment, Agus Rohmat answered We are conducting a national campaign to change the community's paradigm about narcotics, building more rehabilitation facilities, and collaborating with the private sector and communities for aftercare programs, namely post-rehabilitation assistance. We also encourage the implementation of restorative justice for drug abuse cases, so that users are directed more towards rehabilitation than to the green table. From this information, it should be able to be a consideration for law enforcement officers so that the laws created provide real benefits to society, not only the present but also for the future. If observed more deeply, the author concludes that rehabilitation is not only a form of treatment but also a form of repentance, the victims not only get medical assistance but also spiritual assistance so that the peace created does not just come from medicine but also trains the closeness of a servant to Allah SWT.

Agus Rohmat as the head of the Semarang City BNN also gave an answer to the author regarding rehabilitation efforts will be able to survive and be able to reduce the number of victims of drug abuse which is increasing every year, he answered that we see a positive trend. Public awareness of the importance of rehabilitation is increasing. The demand for rehabilitation services has also increased by around 15% in the last three years. This shows that drug users and their families are increasingly aware that the best way out is through recovery, not punishment. A form of self-confidence is very much needed by an agency seeing that the tasks and challenges they face will be increasingly difficult and the problems will be more complex if they are not based on a brave attitude and always increasing competence in the tasks they are carrying out.

3.2. Comparison of Prison Sentences with Rehabilitation Through an Effectiveness Approach for Narcotics Offenders

1) Effectiveness of Prison Sentences for Narcotics Abuse Offenders

The development of science and technology does not always have a positive impact on society. The development of science often creates new problems in society. The law is sometimes unable to resolve new problems that arise due to the progress of the times. One of the most crucial problems in today's society is drug abuse. Drug abuse for oneself is a criminal who must be imprisoned because it is considered to have committed a crime. This opinion is correct if it is studied and reviewed in a legal positivistic perspective (positive law) as regulated in Article 127 paragraph (1) of Law 35 of 2009 concerning Narcotics.¹⁶ Another view says that victims of drug abuse for themselves are victims and not criminals or criminals who should be imprisoned. So they must be treated to recover, according to the author, such an opinion is legitimate if the law is viewed in terms of its benefits and justice. According to Gustav Radbruch's theory, there is a scale of priorities that must be implemented, where the first priority is always justice, then benefits, and finally legal certainty.¹⁷ Although it has been regulated in new legislation, until now there has been no real form in the regulation to place drug users for themselves not only as criminals but also emphasizing that users are victims who must also be restored. Legal science in general and its practice often raises problems concerning the existence of legal rules, and the effectiveness of legal rules by highlighting the effectiveness of the law. This means that the effectiveness of the law will be highlighted from the goals to be achieved.

According to Barda Nawawi Arief, the effectiveness of imprisonment can be viewed from two main aspects of the purpose of punishment, namely the aspect

¹⁶Sarasati, A., Afif, M., & Gunawan, R, 2013, *Analyzing the Narcotics Law*. Jakarta: Community Legal Aid Institute.

¹⁷Rado, RH, Alputila, MJ, & Badilla, NW Y, 2022, *Introduction to Legal Studies Textbook* (PIH). NEM Publisher, p. 35.

of protecting society and the aspect of improving the perpetrator (Barda Nawawi Arief, 2018).

a. The Effectiveness of Imprisonment in Terms of Community Protection.

When viewed from the aspect of protection/interest of society, imprisonment is said to be effective if imprisonment can prevent or reduce the occurrence of crime as far as possible. Knowing the influence of the working of imprisonment is indeed not easy because as stated by J. Andenaes, the working of criminal law must always be seen from the entire cultural context. There is a mutual influence between the law and the factors of our attitudes and actions (Andenaes, 1974). Donald R. Taft and Ralph W. England also stated that the effectiveness of criminal law cannot be measured accurately. In fact, they emphasized that law is only one means of social control. Customs, religious beliefs, support and criticism of groups, pressure from interest groups, and the influence of public opinion are more efficient means of regulating human behavior than legal sanctions (Taft, 1950). The indicator of the rise and fall of crime frequency cannot simply be used as a measure to determine the effectiveness of imprisonment. However, indicators that can be used to measure the effectiveness of imprisonment in restoring social balance include: conflict resolution, peace and a sense of security in society, the disappearance of stains in society or the restoration of values that live in society.

b. The Effectiveness of Prison Sentences Seen from the Aspect of Improving the Perpetrator.

Various supporting programs aimed at suppressing drug dependence on inmates, the Head of the Prisoner Development Section in an interview admitted to facing many factors that affect the performance of the correctional institution, especially in carrying out the essence of the Narcotics Correctional Institution itself as a place for correction and guidance for perpetrators of drug abuse. From the results of direct observation and interviews obtained by the author from the correctional institution, various factors faced include facilities and the number of officers in the Correctional Institution. The following is a description, among others:

1) Land area

The problem of lack of land is a fairly complicated obstacle, currently the total land area is ± 2 hectares which is a place for a special narcotics correctional institution and a women's correctional institution whose buildings are close to each other.

2) Capacity

Initially, the Narcotics Penitentiary was designed to accommodate approximately 200 inmates, and then a Penitentiary area was created with a capacity of 308. However, in the end, along with the development of the era of globalization, the number of inmates of the Narcotics Penitentiary has increased and exceeded the capacity and currently the number of inmates is 336 people. This is exacerbated by the detention center which has been pressing to transfer drug convicts who have been sentenced to be transferred to the Narcotics Penitentiary. The number of inmates ready to be transferred is not small, but is approximately 300 people.

3) Number of Residential Blocks

The capacity for each room in the residential block for inmates is 10 people, but in reality it is unavoidable that the residential block is forced to be filled up to 20 people. This greatly affects the efforts to separate and classify inmates based on the type of narcotics used in order to help reduce the level of dependency and facilitate the rehabilitation process, but once again the land issue is an obstacle for the Correctional Institution.

4) Clinic Capacity

Health Health Clinic plays a very important role in the healing stage of inmates who are experiencing illness or health problems. However, it is very unfortunate because the Health Clinic in the Correctional Institution is very small and does not have an inpatient room. One of the unavoidable emergency conditions is when an inmate is sick, treatment for inpatient care is only carried out in the doctor's clinic room which also functions as an examination room and only has 2 beds.

The statement above received a sufficient answer to be an argument that was felt to have a more optimal side of effectiveness from the head of the Semarang City BNN, the answer to the question submitted by the author to the Semarang City BNN answered that prison is not the right place to cure drug addiction. In prison, abusers do not get adequate treatment and are at risk of being exposed to an environment that can worsen their condition. In addition, the overcapacity of correctional institutions is a serious problem, with many drug case prisoners who should be undergoing rehabilitation. From this answer, the author is convinced that the position of the victim should receive treatment, not just get punishment. Treatment with the aim that the act is not repeated or often called recidiv.

The Head of the Semarang City BNN also explained more clearly that Rehabilitation, both medical and social, is designed to help abusers recover from addiction and return to social functioning. A comprehensive rehabilitation program includes detoxification, counseling, behavioral therapy, and skills training. With this approach, the relapse rate can be suppressed, and individuals can return to being productive in society. So with these actions, the BNN always

coordinates with law enforcement officers to prioritize restorative justice for victims of drug abuse. The BNN will take deeper action not only prioritizing punishment but also recovery and prevention so that in the future it will be able to suppress the number of drug users, this is in line with the theory presented by Prof. Satjipto Rahardjo regarding the theory of progressive law by shifting the status quo, good law is law that can bring positive impacts to society.

Information conveyed by the head of the Semarang City BNN stated that the recidivism rate for drug abuse crimes is increasing every year because the state only focuses on providing laws, not in-depth assistance and treatment efforts so that perpetrators or victims do not return to the dark valley of the drug world, they are able to stop of their own accord, that is what is actually expected by the rehabilitation process, they see, hear and maybe even feel directly the negative side of drug abuse which clearly harms themselves and also the people around them. The situation where they have to witness the negative impacts resulting from consuming these prohibited goods, they will receive medical and non-medical assistance. This is done not with the aim of punishing but treating and inviting repentance. This assistance is also not given to victims but to the community that victims of drug abuse are not criminals but victims, this is done so that victims of drug abuse can be accepted by society. This statement provides an explanation that rehabilitation is more optimal than imprisonment which only gets the focus of punishment, not treatment efforts to prevent the act from being committed again in the future and being able to get out of the dark valley.

2) Effectiveness of Criminal Rehabilitation for Narcotics Abuse Offenders

There is no end to the problem of narcotics that continues to ensnare the nation's children who fall into the dark valley of narcotics. Because of these narcotics, which cause other crimes that are not realized if we commit criminal acts. Not only men, even housewives also take advantage of the momentary use of these narcotics. In terms of targets, initially the victims of crime were adults, then spread to teenagers and children. In terms of perpetrators of crime, initially it was carried out by adults individually which then developed into groups, and recently it has often operated in a planned manner. Initially, teenagers carried out actions that were classified as delinquency alone, but now many of them carry out actions that are classified as criminal acts. A number of crimes are carried out traditionally planned in the sense that the perpetrators have special abilities with a social approach. The incidents that have occurred in Indonesia have not discouraged law enforcement officers from eradicating these illegal narcotics. Many efforts have been made so that the roots of the existence of these illegal narcotics can be exhausted and destroyed. But there are always irresponsible users who are willing to seek narcotics for pleasure alone and without knowing that this dark stuff is a life-threatening item. Although they are continuously rehabilitated to help them recover from narcotics addiction, the

allure of narcotics is strong enough to trap anyone who has used it for temporary pleasure. Rehabilitation is a person's right to obtain restoration of their rights to capacity, status and dignity and to be recognized at the level of investigation, prosecution or judicial process. Every person or law that is carried out in accordance with the manner prescribed by this law. Recovered from physical, mental and social disabilities and able to carry out family and social responsibilities normally.¹⁸

Addicts who undergo outpatient rehabilitation are drug users who can still carry out activities like normal people, but must still be cured of their dependence on these illegal substances. Meanwhile, addicts who must be hospitalized are those who are heavy drug users and can no longer carry out activities like normal people. "Those who are proven to abuse narcotics are rehabilitated to recover from their addiction. Addicts in the mild and moderate categories are rehabilitated as outpatients, while addicts in the severe category are rehabilitated as inpatients at the Batam Rehabilitation Center. Especially for severe addicts, they are required to undergo a post-rehabilitation program at the Rumah Damping. They continue to be guided and given various vocational training to help them return to society as new individuals. In addition, the BNNP Kepri has also provided vocational training for residents of the Rumah Damping, including workshop, screen printing and cake vocational training. The training is expected to change the mindset of addicts to choose a legal livelihood. In general, rehabilitation provided to students with disabilities functions for prevention (preventive), healing (curative), or recovery/return (rehabilitative), and maintenance/guardianship (promotive). Through the healing and health functions, rehabilitation activities, students/victims of drug addicts recover from their illnesses, organs that previously did not function become stronger, organs that previously did not function for people who did not know become aware, and people who previously could not do it will be able to do it. The healing function therefore means recovery or return or refreshment. Addicts here are victims of the environment who consciously or unintentionally use illegal products for pleasure. What is meant by a victim is someone who experiences physical, mental, and or economic suffering caused by a crime.

The effectiveness of the rehabilitation has actually reached a very effective stage, because based on the existing data that friends who have been rehabilitated can basically be said to have recovered, but can repeat their actions again, namely using illegal narcotics, it can be said because they return to their previous environment that encourages them to use narcotics. Therefore, environmental factors are very important, especially for addicts who are post-rehabilitation. With the encouragement factor from the family and the surrounding environment and the role of the community that helps these friends can really

¹⁸Charlie Rudyat, 2018, *Legal Dictionary*, complete edition, Pustaka Mahardika, Yogyakarta, p.356.

get out of the trap of narcotics. For that, it is very important to look at the existing factors. And again, if they return to using illegal narcotics, it has been said that they are only victims who are carried away by the environment. It is different if he uses methods that can be selfish. Such as committing a narcotics crime. In fact, there are many cases like that, initially he was only a victim if after post-rehab he became a dealer and that is the same as committing a narcotics crime. And that is the stage of an illegal narcotics dealer. Intentionally breaking the law, which is clearly stated in the narcotics law itself. And again he must accept the risk of that because he has traded in illegal narcotics. In Law No. 35 of 2009 concerning narcotics which has been clearly explained.

The next challenge according to the Head of the Semarang City BNN said that the number of certified addiction counselors is still lacking. Ideally, one counselor handles a maximum of 10 patients, but in the field, 1 counselor can handle 30 to 40 patients. This certainly affects the quality of rehabilitation services. The limited number of experts in carrying out tasks is a challenge in itself because effectiveness is the goal of this process so that rehabilitation goals can be realized optimally, this situation forces officers to work extra hard in dealing with patients so that all get optimal service facilities to speed up the rehabilitation process. The obstacle of the lack of experts working is not only due to certification, but the burden of salaries that have not been able to be paid is one of the points of consideration. The solution that can be implemented by the Semarang City BNN is to emphasize teamwork to all workers who are struggling to facilitate rehabilitation for victims of drug abuse, the key to the success of a program cannot be done by individuals but the spirit of togetherness and collective struggle for the sake of patient recovery.

4. Conclusion

Narcotics are basically substances or drugs that are useful in the field of medicine and scientific development. However, their inappropriate or unsupervised use can cause dependency and have negative impacts on individuals and the wider community. Drug abuse is included in the criminal acts regulated in Law Number 35 of 2009, which distinguishes between addicts and victims of abuse, and encourages perpetrators to undergo rehabilitation as a form of recovery. Efforts to overcome drug abuse are carried out through a preventive approach (increasing public awareness and faith) and repressive (law enforcement by the Police and BNN). Although the legal system is still largely retributive, the restorative justice approach has begun to be applied to provide a more humane solution, especially for addicts who are victims of dependency. Although rehabilitation has been considered a form of restorative justice implementation, in practice this has not been fully effective in reducing the problem of overcrowding in correctional institutions. Therefore, a re-orientation of legal policies and a more just implementation of the law are urgently needed so that

handling drug crimes is not only punitive, but also restorative. In addition, narcotics can be classified based on their effects (stimulants, depressants, and hallucinogens) and cause various adverse effects such as excessive euphoria, impaired consciousness, hallucinations, and even death. Narcotics crimes themselves include various categories of acts, ranging from possession, distribution, production, to misuse for oneself. Although not explicitly explained in the law, misuse for oneself is still seen as a violation and is an important concern in law enforcement that is fair. In its implementation, this law regulates in detail the prohibition of misuse, illicit trafficking, and rehabilitation measures for addicts and victims of drug abuse.

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