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Rehabilitation Policy as Treatment for Narcotics Addicts (Study at the BNN Kalianda South Lampung Rehabilitation Workshop)

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Abstract

Abuse and illegal circulation of narcotics is already up to a degree of concern for it to the addicts to do rehabilitation to relieve addicts from narcotic dependence. The problem in this study is: what is the basis of legal considerations of judges in dropping a rehabilitation decision as a treatment of narcotics and how to rehabilitation policy as a treatment of narcotics prevention is carried out by the BNN Kalianda Rehabilitation Workshop. The approach to the problem used in this study is to use normative and empirical juridical approaches. The speakers in this study were the judges of the District Court, head of rehabilitation and academics of the Faculty of Law of Lampung University. The results showed that: (1) The basis of legal considerations in dropping a rehabilitation decision as a treatment of narcotics is based on juridical considerations, which are laws, indications, letter Claims, witness information and information of defendants and the basis of non-juridical considerations are based on the wisdom and conviction of a judge's conscience, self-condition, socio-economic conditions and polite nature. (2) The policy carried out by rehabilitation workshop in conducting rehabilitation as treatment is: (a) intensifying policy must report narcotics addicts executed successfully. (b) Both medical and social treatment and rehabilitation service policies have been successfully executed. (c) The policy of advanced coaching to victims of abuse and drug addicts through treatment and rehabilitation of relatively well-being and effective in accordance with existing laws and regulations. The advice in this study is that law enforcement officers should perform tasks can be objective, local governments should maximize the functions of social institutions in relation to rehabilitation policy, resident should be Reporting for voluntary rehabilitation treatment and the public should always supervise.

Keywords: Policy; Rehabilitation; Treatment; Narcotics.

A. Introduction

Indonesia is one of the countries which has become the main destination for the illicit trafficking of narcotics and its precursors. The current misuse and illicit trafficking of narcotics has reached a level that is alarming and threatens all aspects of the life of the nation and state. Basically, narcotics users are committing an act of abusing the efficacy and function of narcotics and the drugs they use. Narcotics abuse is the use of narcotics not intended as a means of treatment but because they want to enjoy, in excessive amounts, regularly and long enough to cause health, physical, mental and social life problems.

Legislative provisions regulating the issue of narcotics have been drafted and enforced, however, crimes related to narcotics cannot be mitigated. In many recent cases, many dealers and dealers were caught and received heavy sanctions, but other actors like to ignore them are even more inclined to expand their area of operation.¹Law Number 35 of 2009 concerning Narcotics as a revision of Law Number 22 of 1997 concerning Narcotics and also covers the classification of narcotics of groups I and II in Law Number 5 of 1997 concerning Psychotropics, was promulgated on 12 October 2009 and placed in a Gazette The Republic of Indonesia State Gazette of 2009 Number 143 and the addition to the State Gazette of the Republic of Indonesia Number 5062. This law was issued as a government action in addressing the increasing abuse of illicit narcotics trafficking and to ensure the regulation of medical and social rehabilitation efforts for abusers and narcotics addicts in accordance with the stated objectives. contained in Article 4 letter (d) of this Law on Narcotics.

Criminalization is not merely a punishment for a person who has committed a criminal act but also has the aim of restoring justice for the victim. The aspects of the punishment given to Narcotics addicts are aimed at providing treatment and rehabilitation rather than just punishment because basically, narcotics abusers or addicts are perpetrators of the crime of narcotics abuse as well as victims of their own actions.

Rehabilitation of narcotic addicts is a process of treatment or treatment to free addicts from dependence, and the period of undergoing rehabilitation is calculated as a period of serving a sentence. Rehabilitation of narcotics addicts is also a form of social protection that integrates narcotics addicts into a social order so that they no longer commit narcotics abuse.²

Based on the Memorandum of Understanding / Joint Regulation of 7 (seven) State Institutions, namely between the Chairman of the Supreme Court of the Republic of Indonesia Number 01 / PB / MA / III / 2014, Minister of Law and Human Rights of the Republic of Indonesia Number 03 of 2014, Minister of Republic of Indonesia Number 11/2014, Minister of Social Affairs of the Republic of Indonesia Number 03 of 2014, Attorney General of the Republic of Indonesia Number PER- 005 / A / JA / 03/2014, Chief of Police of the Republic of Indonesia Number 1 of 2014 and Head of the National Narcotics Agency of the Republic of Indonesia Number PERBER / 01 / III / 2014 / BNN regarding the Handling of Narcotics Addicts and Victims of Narcotics Abuse in Rehabilitation Institutions.

Based on the explanation above, it can be seen that the purpose of the Joint Regulation of 7 (seven) State Agencies, namely to guarantee efforts to regulate medical and social rehabilitation as an alternative effort to impose criminal sanctions for narcotics addicts and to realize optimal coordination and cooperation between law enforcement agencies. in the framework of resolving narcotics problems and eradicating the illicit trafficking of narcotics through the handling of suspects, defendants or narcotics abuse convicts with a program of treatment, care and recovery.

In the double track system, the formulation of sanctions against narcotics addicts is a criminal law policy in the formulation of provisions regulating sanctions given to narcotics addicts, namely in the form of criminal sanctions and treatment sanctions considering that narcotics specialists have a slightly different position from other criminal offenders.

¹OC Kaligis and Associates. Drugs and Judiciary in Indonesia, Criminal Law Reform through Legislation and Justice. Bandung: Alumni. 2012. p. 260.

²Law Number 35 of 2009 concerning Narcotics, Article 1 number 16. State Gazette of the Republic of Indonesia of 2009 Number 143, Supplement to the State Gazette of the Republic of Indonesia Number 5062

B. Research methods

The approach to the problem used in this research is to use a normative juridical approach and an empirical juridical approach. The resource persons in this study were Tanjung Karang District Court Judges, Head of the Rehabilitation Workshop for the National Narcotics Agency of South Lampung, and academics from the Faculty of Law, University of Lampung. Collecting data using library research and field studies with data analysis techniques using qualitative analysis.

C. Results and Discussion

1. Basic Legal Considerations of Judges in Deciding Rehabilitation as Treatment for Narcotics Addicts

The judge must have reasons and basic considerations in making his decision. In making this decision, 3 (three) elements must be considered, namely:

- a. Legal certainty
Legal certainty emphasizes that applicable laws or regulations are upheld and obeyed
- b. Benefit
Emphasizing that law enforcement must provide benefits, not to cause unrest for society and the state
- c. Fairness
Emphasizing that by enforcing the law it will provide a sense of justice for the community³.

When making a verdict, a judge refers to the facts obtained at trial, as well as from the legal evidence found in Article 184 paragraph (1) of the Criminal Procedure Code (KUHP), namely:

- Valid evidence is:
- 1) Witness statement
 - 2) Expert statement
 - 3) Letter
 - 4) Instructions
 - 5) Description of the defendant.

Meanwhile, if you look at the basic considerations of the Narcotics Law letter c which states that on the one hand narcotics are drugs or substances that are useful in the field of medicine or health services and scientific development and on the other hand, they can also cause dependency which is very detrimental if misused or used. without strict and careful control and supervision. The Narcotics Law has provided different treatment for narcotics abuse offenders before this law came into effect, in Law Number 9 of 1976 concerning Narcotics there is no difference in treatment between users, dealers, dealers, or narcotics producers, while narcotics users or addicts are in one. on the other hand, he is a perpetrator of a criminal act, but on the other hand is also a victim.

Based on the research results, it is known that the implementation of rehabilitation takes into account Law Number 35 of 2009 concerning the implementation of rehabilitation measures, namely:

1) Art 56

- a) Pacandu Narcotics medical rehabilitation is carried out in the hospital by the

³Interview on March 18, 2019 with Salman Alfarasi Hakim at the Tanjung Karang District Court

Minister

- b) Certain rehabilitation institutions run by government agencies or the community can carry out medical rehabilitation for Narcotics Addicts after obtaining the approval of the Minister.

2) Art 57

Apart from medical treatment and / or rehabilitation, the healing of Narcotics Addicts can be organized by government agencies or the community through religious and traditional approaches.

3) Article 58

The social rehabilitation of former Narcotics Addicts is organized by both government agencies and the community.

The articles above are strengthened by the existence of a Supreme Court Circular Letter Number 04 of 2010 hereinafter referred to as SEMA Number 04 of 2010 concerning Placement of Abuse, Abuse Victims and Narcotics Addicts into medical rehabilitation and social rehabilitation institutions. SEMA Number 04 of 2010 describes the limitations of certain types of narcotics abuse and things that can be considered by the judge in deciding the accused who is a narcotics abuser to get rehabilitation action. In Law Number 48 of 2009 concerning Judicial Power contained in Chapter IX, Article 50 paragraph (1) regarding Court decisions, it states that court decisions must contain reasons and basis for the decision,

Based on the research results it is known that the judges' considerations in imposing rehabilitation sanctions as a form of crime are as follows:

- a) Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics
- b) Supreme Court Circular (SEMA) Number 4 of 2010 concerning Placement of Abusers, Abuse Victims into Medical and Social Institutions
- c) Government Regulation (PP) Number 25 Year 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts to get therapy and rehabilitation services
- d) 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 investigation, prosecution and trial or have received court rulings / decisions.
- e) Decree of the Minister of Health (Kepmenkes) Number 1305 / Menkes / SK / VI / 2011 which appointed 131 Recipient Agencies for Reporting Obligations (IPWL) in 33 Provinces
- f) Joint Regulation of the Chairman 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, 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 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.

2. Rehabilitation Policy as a Treatment for Narcotics Addicts Implemented by the Kalianda Rehabilitation Workshop in South Lampung, Lampung Province

The policies implemented by the Kalianda Rehabilitation Workshop in South Lampung, Lampung Province to optimize the implementation of rehabilitation as a treatment for narcotics users are as follows:

a) Intensifying the mandatory report to narcotics addicts

To detect drug abusers, in addition to the implementation of the intended drug test, adult or immature drug addicts are urged to immediately report their addiction cases to undergo rehabilitation therapy in rehabilitation therapy places. The self-reporting process is what is called compulsory reporting. This mandatory reporting activity is regulated by Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts. Mandatory reporting is an activity to self-report carried out by Narcotics addicts who are of age or their families, and / or parents or guardians of Narcotics addicts who are not yet old enough to the receiving institutions are obliged to report to receive treatment and / or care through medical rehabilitation and social rehabilitation.

Mandatory Reporting for Narcotics Addicts is carried out at the Recipient Institution who is obliged to report; Public health centers, hospitals and / or medical rehabilitation institutions as Recipient Institutions Mandatory Reports are stipulated by the Minister of Health Number 1305 / MENKES / SK / VI / 2011 regarding Recipient Institutions Mandatory Report. In addition, the social rehabilitation institution as a Recipient Institution of Compulsory Report is stipulated by the Minister who conducts government affairs in the social sector, which is obliged to report by reporting Narcotics Addicts to the Recipient Institution of Obligatory Reports. In this case the report is made in addition to the Obligatory Report Recipient Institution, the officer who receives the report forwards it to the Report Obligatory Recipient Agency Addicts who have carried out the mandatory report are required to undergo medical rehabilitation and or social rehabilitation according to their rehabilitation plan. Medical rehabilitation can be carried out through outpatient or inpatient treatment according to the rehabilitation plan taking into account the results of the assessment. Social rehabilitation can be carried out both inside and outside social rehabilitation institutions in accordance with the rehabilitation plan by taking into account the results of the assessment.

The research data shows that the number of mandatory reports to the IPWL (Report Obligatory Recipient Institution) is always more than the stipulated limit, where in 2016 the Kalianda Lampung Selatan Rehabilitation Workshop targets 70 compulsory reports but realization reaches 98 mandatory reports, in 2017 the Kalianda South Lampung Rehabilitation Workshop targets 110 130 mandatory reports are realized and in 2018 the Kalianda South Lampung Rehabilitation Workshop targets 120 reports to be realized, reaching 127 mandatory reports. Thus, it can be concluded that the implementation of policies to intensify the number of mandatory reports at the Kalianda Rehabilitation Workshop, South Lampung, has gone well, it can be seen from the achievement of the targets of the policy.

The increase in the number of mandatory reports that occurred in 2017 is evidence of the success of the government's rehabilitation policy of 100,000 people and with this policy it has been able to change the way the community views narcotics abusers, they are no longer considered as prisoners, community trash or as criminals who must be shunned but see them as victims who must be rescued and for that, the community is motivated to assist abusers in reporting themselves to mandatory report recipient institutions in the hope that they can be rehabilitated.

b) Rehabilitation services

The rehabilitation service policy for narcotics addicts adopts a treatment and treatment system, this is in accordance with the objectives of punishment by providing treatment, treatment and rehabilitation for the perpetrator in exchange for criminal sanctions. Rehabilitation service policies for narcotics addicts also pay attention to social protection, which integrates narcotics addicts into social order development so that narcotics addicts do not repeat their actions again. A statutory order to implement a rehabilitation services policy must be executed, In order to put this policy into operation, a regulation was formed that specifically regulates the technical implementation of rehabilitation for addicts and victims of narcotics abuse, as a form of implementing the policy.

The legal basis for the issuance of a rehabilitation service policy for narcotics addicts is a form of carrying out the orders of Law Number 35 of 2009 concerning Narcotics as regulated in Article 54, Article 55, Article 103 and Article 127, Government Regulation Number 25 of 2011 concerning Mandatory Reporting of Addicts. Narcotics, and the Joint Regulation 7 (seven) State Agencies of 2014 concerning the Handling of Addicts and Narcotics in its handling, the Kalianda Rehabilitation Workshop applies a more depenalization and decriminalization policy approach.⁴

The realization of the treatment and rehabilitation service policy for narcotics addicts at the Kalianda Rehabilitation Workshop can be done through two placement methods, as follows:

- 1) By voluntarily reporting themselves (voluntary), narcotics addicts can actively ask the government for assistance to get rehabilitation treatment for recovery from narcotics dependence, requests for rehabilitation can be made at the designated IPWL (mandatory reporting institution) or can ask for help from institutions BNN and the Police.
- 2) Through the legal process (compulsary), narcotics addicts who are caught red-handed can be rehabilitated in the legal process, namely by means of an assessment examination, both examinations from the legal and medical teams, rehabilitation is carried out during the investigation process until the judge's decision in court.

Based on the research data, it can be seen that the number of patients who carry out rehabilitation from narcotics dependence every year is relatively large, where in 2016 from May to Narcotics Abuse into the Rehabilitation

⁴Interview on March 25, 2019 with Bambang Styawan, Head of the BNN Kalianda South Lampung Rehabilitation Workshop

Institution. The policy for the rehabilitation service for pecandudas in December, there were around 98 rehabilitation patients, increasing in 2017 as many as 130 patients, while in 2018 the number decreased to 127 patients. Of the number of rehabilitation patients at the Kalianda Rehabilitation Workshop, South Lampung, the dominance of the shipments made by the family is 65 in 2016, increased in 2017 to 83 and decreased in 2018 to 63 patients. The high rate of sending by families proves that there is awareness in individuals and families the importance of healing to be free from drug addiction and its junk.

- 3) Further guidance to victims of abuse and drug addicts Continuous rehabilitation is a stage of advanced development (after care) which is a series of positive and productive policies for narcotics abusers / addicts after undergoing the treatment and recovery stages (medical and social rehabilitation). The advanced development stage is an integral part of the treatment and rehabilitation of narcotics dependence and cannot be considered as a form of independent therapy, this is related to the general understanding that after addicts undergo a treatment and rehabilitation program at the Kalianda Rehabilitation Workshop in South Lampung, they still need assistance so that the reintegration process into society can take place in accordance with the aim of being able to live normatively, independently and productively.

The importance of implementing a policy of further development for victims of abuse and drug addicts after treatment and rehabilitation is to help former drug abusers to return to live in a normative, productive and independent community and can function socially, so as to reduce the negative stigma from society towards former abusers. use narcotics and increase community support for the recovery process. Post-treatment and rehabilitation services are part of social rehabilitation in the form of further coaching in the form of mentoring, skills improvement and productivity support in order to be able to maintain recovery and adapt to a social and independent environment.

Based on the results of the study, it is known that the implementation of the policy of further guidance to victims of abuse and drug addicts through treatment and rehabilitation can be categorized as running well because overall, residents who complete the treatment and rehabilitation process are both inpatient and outpatient in the Kalianda Rehabilitation Workshop, South Lampung. The number of services for former narcotics addicts carried out by the Kalanda South Lampung Rehabilitation Workshop in 2018 were 25 people with group coaching 6 times in 2018. to face life while returning to the community through routine activities.

D. Conclusion

The basis for the legal consideration of the judge in making a rehabilitation decision as a treatment for narcotics addicts has been based on juridical considerations, namely seeing from the laws and regulations, the indictment letter, the letter of demand by the public prosecutor, witness testimony and statement of the defendant in court and the basis for non-juridical considerations, namely based on the discretion and conviction of a judge's conscience, in seeing the conditions that are classified, among others, the background of the act, the condition of the self, the socio-economic conditions, the character of the defendant's politeness and courtesy in the trial.

The policies implemented by the Kalianda Rehabilitation Workshop in South Lampung, Lampung Province to optimize the implementation of rehabilitation as a treatment for narcotics users are as follows:

- a. The policy of intensifying the compulsory reporting of narcotics addicts implemented by the Kalianda South Lampung Rehabilitation Workshop has been successfully implemented, this is shown in the achievements that have exceeded the targets previously set
- b. The treatment and rehabilitation service policies, both medical and social, have been carried out well by the Kalianda Rehabilitation Center in South Lampung, this can be seen in the increasing number of abusers being rehabilitated. With this confirmed by the rehabilitation program of 100,000 people. The percentage of recovery from clients who followed the treatment and rehabilitation process was 80.70% or exceeded the national standard of success, namely 60%
- c. The policy of further guidance to victims of abuse and drug addicts through relative treatment and rehabilitation is good and effective in accordance with existing laws and regulations as seen from the increasing number of residents who are recovering after following treatment and rehabilitation. It is hoped that further guidance can help improve the physical and psychological readiness of former narcotics abusers to return to social life and become productive human beings.

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