



# *The Regulation of Drug Abusers Rehabilitation in the Legal System of Indonesia*

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**Abstract**— This article examines the regulations governing the rehabilitation process for novice users, victims of drug abuse, and addicts within the Indonesian legal framework. This research aims to analyze and develop a legal framework regarding legal situations involving inexperienced users, individuals who are addicted, and drug abusers in the current context, as well as conceptualizing the meaning of narcotics rehabilitation in the context of the Indonesian legal system. The chosen research methodology requires a qualitative approach by utilizing secondary sources such as normative and empirical legal materials. This study shows that the regulatory framework regarding the rehabilitation process for novice users, drug addiction victims and addicts in the Indonesian legal system is currently still not comprehensive. The application of the legal framework in justice processes involving individuals who are inexperienced users, drug addicts, or drug abusers can be achieved through an approach that prioritizes rehabilitation. The formulation of the concept of optimal narcotics rehabilitation within the framework of the Indonesian legal system includes the elimination of discriminatory practices in accessing rehabilitation assessments. This concept ensures that all individuals involved in drug abuse and addiction are given the same rights, precisely the principle of legal equality, during the rehabilitation eligibility evaluation process. By adopting a comprehensive perspective, ensuring adequate availability, and fostering solid inter-agency cooperation, rehabilitation is expected to serve as an appropriate strategy to facilitate the recovery of those struggling with drug abuse.

**Keywords**— Regulation, Rehabilitation, Narcotics.

## I. INTRODUCTION

The issue of drug misuse has been a longstanding and significant one in numerous nations. The practice of incarcerating individuals who engage in drug usage is an inequitable approach to law enforcement. Individuals who engage in substance misuse can be characterized as individuals with a medical condition, and it is inappropriate to conflate individuals with medical conditions with other individuals who have committed criminal offenses.[1] When addressing the issue of drug abuse, it is crucial to consider the equilibrium between preventative, punitive, and rehabilitative measures. The implementation of preventive measures is critical to mitigating drug abuse from its inception. The implementation of repressive measures is expected to yield a deterrent impact, hence resulting in a reduction in drug trafficking activities. Addressing the drug problem necessitates the implementation of a comprehensive and enduring strategy encompassing preventative, repressive, and rehabilitative measures.[2]

In recent times, there has been an observable trend of drug-related activities and criminal offenses that transcend national boundaries, characterized by the utilization of specific methods and advanced technological means. It is expected that law enforcement officers to be able to stop and solve these kinds of crimes in order to raise moral standards and the standard of human resources in Indonesia, particularly for the country's future generations.[3] The issue of drug usage poses a significant challenge to the development and empowerment of the younger generation, who will assume leadership roles in shaping the future of the Indonesian nation.

From a medical standpoint, it is widely debated among professionals that individuals who abuse narcotics are, in fact, victims of criminal syndicates or participants in the illicit distribution of drugs, making it challenging for them to break free from their reliance. The prevalence of drug addiction is pervasive among individuals residing in both urban and rural areas, presenting a formidable challenge in terms of curtailing its circulation. The utilization of narcotics for non-therapeutic purposes is not intended for the treatment of medical conditions but rather for the deliberate attainment of a specific state of consciousness facilitated by the drug's impact on the psyche.

Based on a juridical perspective, drug users cannot be considered criminals since crimes must have victims, and victims are other people (an act must occur that involves harm imposed on someone by the actor).[4] In drug abuse, an appropriate criminal law policy is needed. The illicit circulation of narcotics has caused many victims from various circles. Drug addicts and abusers are basically victims of drug criminal abuse, namely drug illicit trafficking syndicates. Indonesia's Narcotics law governs the provision of rehabilitation services for individuals who engage in drug misuse and addiction.[5]

The Republic of Indonesia's Law No. 35 of 2009, which pertains to Narcotics, ensures the provision of regulations related to the implementation of medical and social rehabilitation initiatives for individuals who are dependent on and abuse drugs. Furthermore, it is mandated by legislation that individuals who take drugs and are addicted to them must undergo both medical and social rehabilitation. This requirement is outlined and specified in Article 54, Article 55, Article 103, as well as Article 127, paragraphs (1), (2), and (3). In addition to incarceration, the legal system grants judge the authority to impose rehabilitation as a means of sanctioning individuals who are involved in drug abuse and addiction. However, numerous courts opt to enforce criminal penalties instead of rehabilitation measures.

The current absence of an ideal rehabilitation model in Indonesia is exemplified by the suboptimal legal procedures surrounding drug abuse cases, which often result in injustices against ordinary citizens involved in drug abuse compared to their upper-class counterparts and prominent individuals, including the children of officials or numerous artists entangled in drug abuse. Based on the description above, the researcher has identified a problem that requires attention: "What are the legal regulations governing the rehabilitation process for individuals who are new to drug use or have fallen victim to drug abuse, as well as for addicts, within the legal framework of Indonesia? Furthermore, how can the development of the Indonesian legal system contribute to establishing optimal legal frameworks for the concept of narcotics rehabilitation?"

## II. RESEARCH METHOD

The method used in this study is qualitative research using the type of normative research, namely research on legal principles, legal systematics, and others related to this method in finding data, to support and complete data and empirical juridical research, namely socio-legal research in the form of field research, which examines applicable legal provisions and what happens in reality in community. The normative research in question will employ a philosophical approach, specifically the one utilized in Law No. 35 of 2009 regarding Narcotics, which governs the regulation of narcotics in Indonesia. Subsequently, the statutory and conceptual approaches will be employed to construct perspectives and doctrines that advance the field of legal science. The significance of this method is in its ability to serve as a foundation for constructing legal arguments in the resolution of legal challenges, as it facilitates comprehension of the perspectives and principles that emerge within the field of legal science.

## III. FINDINGS AND DISCUSSION

Drug crime is considered a form of crime that has important consequences for the future of this nation and destroys lives and futures, especially for the younger generation.[6] In general, what is meant by narcotics is a type of substance that can cause certain effects for people who use it, by inserting it into the body.[7] Law enforcement officials have extensively implemented legal protections for abusers who are also victims of drug misuse. Therefore, it is anticipated that this legal protection will serve as a mitigating element in combating the widespread unlawful dissemination that engenders several individuals affected by substance misuse.

Efforts aimed at preventing and eliminating the abuse and illicit distribution of narcotics and narcotic precursors align with the state's objective of safeguarding the entirety of the Indonesian nation and its population. This implies that the state is responsible for providing the safety and security of all individuals residing in Indonesia, safeguarding them against a range of potential hazards, including physical and non-physical forms of harm.[8]

In order to effectively address the issue of drug usage, it is imperative to implement a holistic and inclusive approach that encompasses the following components: 1) Prevention: The primary focus should be preventive measures. This includes the provision of educational resources and counseling aimed at raising awareness about the hazards associated with narcotics, as well as enhancing the availability of rehabilitation and recovery services. 2) Law enforcement (repressive): The use of stringent law enforcement measures to combat the smuggling, circulation, and illicit trafficking of narcotics is crucial to diminish the availability of narcotics

effectively. 3) Rehabilitation (rehabilitative): Ensuring sufficient availability of rehabilitation and recovery services is crucial for individuals impacted by substance misuse.

Coaching programs for drug abusers and addicts are important to ensure the effectiveness and suitability of these programs with the needs of drug abusers and addicts and rehabilitation goals. Supreme Court Circular (SEMA) No. 4 of 2010 and Supreme Court Circular No. 03 of 2011, which regulate the placement of abusers, victims of abuse, and drug addicts into medical rehabilitation and social rehabilitation institutions, Attorney General Circular Letter (SEJA) No. SE-002/A/JA/02/2013 also affirms the placement of victims of drug abuse to medical rehabilitation and social rehabilitation institutions as an effort to obtain treatment and rehabilitation that in accordance with their conditions, and the Joint Regulation by the Supreme Court, Ministry of Law and Human Rights, Ministry of Health, Ministry of Social Affairs, Attorney General, Chief of Police, and BNN in efforts to handle drug addicts and victims of drug abuse into rehabilitation institutions shows collaboration and commitment between relevant institutions to implement a more effective rehabilitative approach.

Law No. 35 of 2009 concerning Narcotics in terms of narcotics rehabilitation consists of two main aspects: 1) Therapeutic procedure conducted by the National Narcotics Agency's eradication sector to liberate individuals suffering from drug addiction from their habit. The primary objective of medical rehabilitation is to mitigate substance abuse and facilitate the recovery process for individuals grappling with addiction. 2) Social Rehabilitation is a comprehensive rehabilitative endeavor encompassing recovery's physical, mental, and social dimensions. The objective is to facilitate the reintegration of individuals who have previously struggled with substance abuse into various social roles within society. The discourse surrounding the reform of the legal system, particularly concerning the treatment of drug victims, is a significant topic that merits appreciation.[9] Specifically, the focus on rehabilitating drug victims is aimed at enhancing the overall well-being of the nation. The consensus among scholars is that the legal system plays a crucial role in driving societal progress, surpassing the influence of communal morality and individual character.[10]

The issue of drug misuse warrants significant consideration, encompassing both preventative measures and the provision of rehabilitation and recovery initiatives for individuals affected by drug abuse. The significance of implementing recovery programs within the context of substance usage lies in the recognition of a governing principle. Law No. 35 of 2009, which pertains to narcotics.[11] In Indonesia, does indeed establish distinct measures for individuals who engage in drug misuse. The rehabilitative approach employed within the legal context aims to perceive drug users or addicts as individuals requiring treatment and rehabilitation.

It emphasizes the importance of allowing them to recover their health and rebuild a better life. The implementation of punishment for judges in drug cases remains ineffective. The prevailing practice is to incarcerate drug users rather than provide them with the rehabilitation sentences mandated by the Narcotics Law, namely Article 103. This article grants judges the authority to impose sentences or sanctions focused on rehabilitation for individuals who are drug addicts.

The concepts of rehabilitation and criminal prosecution are sometimes perceived as contrasting ways of addressing drug dependence. Nevertheless, it is crucial to acknowledge that both entities might significantly contribute to the endeavor of crime reduction, contingent upon the specific circumstances and requirements of the parties involved. Advocates of rehabilitation frequently present multiple justifications for the perceived superiority of rehabilitation over incarceration.

The validity of the notion that drug users should be considered victims rather than perpetrators of criminal crimes, in accordance with the theory of justice, has been affirmed by SEMA No. 4 of 2010 and Government Regulation No. 25 of 2011. Considering those struggling with substance abuse as individuals in need of comprehensive healthcare, encompassing both physical and psychological support, aligns with principles of justice and humanitarianism. The rehabilitative method plays a crucial role in addressing drug misuse. The significance of the rehabilitation factor is in its role in facilitating the provision of essential treatment to those who have been impacted by drug abuse, hence promoting their recovery.

Furthermore, a contemporary method for addressing drug abusers and addicts is the implementation of the restorative justice approach, specifically in drug-related cases that involve those struggling with addiction, substance misuse, or those who have been victimized by such behaviors. The restorative justice approach seeks to reinstate equilibrium and repair relationships that have been harmed due to criminal actions. This strategy emphasizes the prioritization of healing, reconciliation, and the active engagement of all relevant stakeholders, encompassing perpetrators, victims, and communities. Restorative Justice is an emerging paradigm in contemporary criminal law that has evolved from societal perspectives on justice. The implementation of restorative justice in cases involving drug crimes might be facilitated through the voluntary reporting of victims or individuals struggling with drug usage to law enforcement authorities.[12] The enactment of Government Regulation No. 25 of 2011, which pertains to the Compulsory Reporting for those with Substance Abuse, can be regarded as an endeavor towards implementing restorative justice principles for those struggling with drug addiction.

As the case controller based on the principle of *dominus litis*, the Prosecutor can solve cases of drug abuse crimes through rehabilitation at the prosecution stage. According to Guideline No. 18 of 2021, the resolution of

drug abuse cases through rehabilitation is closely linked to the application of restorative justice. This approach aims to reinstate the initial state by rehabilitating individuals who have committed drug abuse crimes, which are considered victimless offenses.

The formulation of optimal legal frameworks about the concept of narcotics rehabilitation within the context of the Indonesian legal system encompasses various crucial components. The subsequent elements can comprise components of an optimal construction: 1) There is an absence of discrimination in acquiring assessments to conduct rehabilitation. 2) Integrated and Holistic: Narcotics rehabilitation programs should include an integrated and holistic approach involving multiple sectors, such as health, education, employment, and social recovery. 3) Interagency collaboration: ideal construction also involves close collaboration between different institutions, such as government, medical institutions, law enforcement officials, rehabilitation agencies, and civil society. 4) Continuous evaluation and improvement: The optimal construction must undergo ongoing examination and improvement, drawing upon experience, research, and the latest advancements in the domain of narcotics rehabilitation.

#### IV. CONCLUSION

The current Indonesian legal system lacks a comprehensive and multifaceted approach to the rehabilitation process for beginner users, victims of drug misuse, and addicts. When contemplating a complete overhaul of criminal legislation about drug usage, it is imperative to give due consideration to prioritizing rehabilitation over incarceration. It is essential to adopt a comprehensive approach to the legislative reform of drug user rehabilitation to ensure the provision of holistic care and support, effectively tackle several dimensions of the drug addiction issue, and mitigate the adverse consequences it engenders. The rehabilitation of drug addicts employs a multifaceted approach that recognizes the interconnected nature of numerous components involved in individual recovery. The formulation of an optimal legislative framework for the concept of drug rehabilitation can be achieved by an approach that prioritizes rehabilitation, safeguards human rights, and emphasizes prevention. Individuals who are engaging in substance misuse for the first time, those who have developed a dependency on drugs, and individuals who are chronic drug users should be regarded as individuals who have experienced victimization and require compassionate treatment, comprehensive recovery programs, and ongoing support. Furthermore, Restorative Justice emerges as a contemporary paradigm in criminal law, originating from societal developments in thinking. The emergence of this concept might be attributed to a reaction against the retributive paradigm in the realm of justice and the criminal justice system.

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