

## ANALYSIS OF GOVERNMENT POLICY IN IMPLEMENTATION SANCTIONS FOR REHABILITATION OF DRUG ADDICTS

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### ABSTRACT

*Drug abuse has become a serious threat to society and government, therefore the government set up a special institution tasked to rehabilitate drug addicts, in this case the intention is Drug Addicts Rehabilitation Center. This institution was formed with the aim that is to rehabilitate drug addicts so that recovered and can be accepted back in the middle of society and these institutions exist throughout Indonesia. Rehabilitation centers can be either medical rehabilitation or rehabilitation by mental and moral or social coaching. At the rehabilitation center, a combination of the two elements of rehabilitation methods for drug addicts who enter to join the rehabilitation program at the rehabilitation center and aims to restore the mental and moral condition of drug addicts so that back into a normal, mentally and morally good, and ready to go back to live his life in the middle of society. The problem in this research is how government policy in applying of rehabilitation sanction to narcotics addict. Problem approach is done with normative juridical approach. Based on the results of the discussion can be concluded, the judge who examines the case against narcotics addict can impose a rehabilitation decision as the formulation of Article 103, implicitly Law No. 35 of 2009 on Narcotics has changed the paradigm that narcotics addicts are not always criminals, but are victims of self-abuse of narcotics. In the Surat Edaran Mahkamah Agung (SEMA) Number 4 Year 2010 on the Placement of Narcotics Abuse, victims of abuse and drug addicts into the Institute of Medical Rehabilitation and Social Rehabilitation are also affirmed on the basis of consideration or reference of judges in imposing rehabilitation sanctions.*

**Keywords:** Policy, Rehabilitation, Narcotics addict

### I. INTRODUCTION

Seeing the problem of Narcotics (Narcotics, Psychotropic and other addictive substances) in this increasingly rampant country, it is fitting for us to pay extra attention. The addictive substances originally created for the medical world have switched abused functions to obtain anti-depressant effects for each use when used in certain doses. Drugs no longer recognize social strata, profession, age and gender. It seemed to have penetrated into the layer without any limitations.

Now in Indonesia there are 5 million drug users and 2 million of them in a state of severe dependence so that it can no longer be rehabilitated. So when accumulated, if shabu-shabu addict need one gram per day, it means there are 5 tons of shabu per day in circulation. And from a number of facts found that of 5 million drug users, about 40-50 people died every day. Law enforcement of narcotic crime has been done by law enforcement officers and has many judges verdict on narcotics case, the intensity of efforts done by law enforcement against narcotics crime is increasing also the circulation and abuse of narcotics.

Efforts to overcome the problem of narcotics addiction requires appropriate measures and policies to high drug abuse rates in this country can be suppressed, Narcotics handling using law enforcement approach seems to have not produced a solution in accordance with prevention efforts, narcotics abuse and narcotics narcotics are often abbreviated as P4GN (Prevention, Eradication, Abuse and Illicit Circulation of Drugs) which has been declared National Narcotics Agency.

Narcotics addicts are people who use or abuse narcotics and in a state of dependence on narcotics both physically and psychologically as written in article 1 point 13 of Law Number 35 Year 2009 on Narcotics.

Some laws in Middle East East and North Africa (MENA) countries, however, do penalize drug consumption, even if the consumer is not in possession of the drug, if it can be proven that there has been drug use, according to technical and medical criteria set by the law.

Rehabilitation is an effort to restore the health of body and soul that is addressed to drug addicts who have undergone curative program. The goal is that addicts do not use again and free from follow-up diseases such as physical damage (nerves, brain, blood, heart, lungs, kidneys, liver, etc.), mental damage, negative character changes, asocial, diseases such as HIV / AIDS, Hepatitis, syphilis, etc. caused by traces of drug use.

Rehabilitation is not just restoring the original health of the addict, but restoring and nourishing an addict whole and whole. Drug rehabilitation is an ongoing and holistic process. Drug diseases are special and always leave a sense of mental and physical addiction. Someone managed to overcome it in a relatively short time, but there are also those who have to fight for life to tame it. Therefore rehabilitation of drug victims should include efforts to support the victims, day by day in making the development and filling of life in a meaningful and quality in the physical, mental, spiritual and social.

From the above definition can be concluded that the rehabilitation is the process of restoring the physical, mental, and mental conditions for the drug users, especially those who have been categorized as drug addicts, so it can be re-accepted in the middle of society and can return to life as before.

Based on the above description of the background of the problem is how the government policy in the implementation of rehabilitation sanctions against narcotics addicts?

## II. DISCUSSION

According to WHO, there are 83 countries that have repressive laws that pose barriers to HIV responses. Furthermore 33 countries and territories still include the death penalty for drug offences, including 10 in which the sentence is mandatory. In the past year, hundreds of people have been executed for drugs offences in violation law in small minority of state that continue to operate at the fringes of international consensus.

The National Narcotics Agency has a policy of depenalization of narcotics addicts in order to build a paradigm that develops in our society today is to consider drug addiction as a serious violation and the perpetrator deserves a prison sentence, this perception that needs to be changed in the handling of narcotics cases. In Law No. 35 of 2009 on narcotics has authorized the judge who examines the narcotics addict case to be able to decide who is undergoing treatment and / or treatment, whether the narcotics addict is proven or not proven guilty of committing a crime. It is affirmed in the formulation of Article 103, which reads:

- 1) The judge who examines Narcotics Addiction cases may:
  - a. Deciding to order the concerned person to undergo treatment and / or treatment through rehabilitation if Narcotics addict; or
  - b. Placing to order the person concerned to undergo treatment and / or treatment through rehabilitation if Narcotics addict is not proven guilty of a Narcotics crime.
- 2) The period of treatment and / or treatment for Narcotics addict as referred to in paragraph (1) letter shall be calculated as a mass of punishment.

The abuse of narcotics depenalization policy is in accordance with the direction of the President of the Republic of Indonesia. Through this policy, victims of narcotics or addicts abuse can be given efforts in the form of rehabilitation and guidance to a better life. This solution is more appropriate than placing the addict or the victim into a correctional institution. Implementation of criminal law in the form of imprisonment for victims of narcotics abuse proved to have failed because it is annually the victim of the perpetrator who entered the prison the number is increasing. Similar policies that have been taking place in countries such as Portugal, Luxembourg, and Thailand show success in suppressing the prevalence of narcotics abusers.

Sanction on drug consumption have been reduced for the following reasons: First, punishment for possession or consumption would have be imprisonment of between two months and two years. This is the lighter sentence that lockup or hard labor and indicates that drug consumption or possession for personal consumption is considered a misdemeanor rather than a felony: Second, the law authorizes the judge to choose between imprisonment and a fine and does not force him to combine the two and third, the judge's authority to determine the sanction provides some autonomy as to whether imprisonment or a fine is chosen, as there are large differences between minimum and maximum limits.

With the provision that a judge reviewing a case against a narcotics addict may impose a rehabilitation decision as mentioned in Article 103 above, implicitly Law Number 35 Year 2009 on Narcotics has altered the paradigm that narcotic addicts are not always criminals but are victims of abuse narcotics that he did himself. In the Circular Letter of the Supreme Court (SEMA) Number 4 Year 2010 on the Placement of Narcotics Abuse, the victims of abuse and drug addicts into the Medical Rehabilitation and Rehabilitation Institution are also affirmed on the basis of judges' consideration or reference in imposing rehabilitation sanctions. It is stipulated in item 3 letter (a) that:

“In the event that a judge handed down a crime of ordering a legal action in the form of rehabilitation of the defendant, the judge must point firmly and clearly the place of the closest rehabilitation in the ruling”

The drug user remains under treatment until the treatment center's supervising committee decides to release him. In law, the status of individual changes from convicted offender to “sick person”. The other laws promote voluntary request for treatment, although some set a maximum period.

Joint Regulation of the Chief Justice of the Supreme Court of the Republic of Indonesia, Minister of Justice and Human Rights of the Republic of Indonesia, Minister of Health of the Republic of Indonesia, Minister of Social Affairs. The Republic of Indonesia, the Attorney General of the Republic of Indonesia, the Chief of the Indonesian National Police, and the Head of the National Narcotics Board of the Republic of Indonesia Number 01/PB/MA/III/2014-03 Year 2014-11/Year 2014-PER-005/A/JA/03/2014-1 Year 2014 PERBER/01/III/2014/BNN on Narcotics Drug Addiction and Narcotics Abuse Victims in Rehabilitation Institution which aims to realize the optimal coordination and cooperation in solving narcotics problems in order to determine the number of narcotic addicts and drug abuse victims through the treatment, care and recovery program in the handling of narcotic addicts and drug abuse victims as a suspect, defendant or prisoner, while continuing to carry out the eradication of illicit narcotics.

Rehabilitation of narcotics addict is a treatment process to relieve addicts from dependence, and the duration of the rehabilitation is calculated as the duration of the sentence. (Article 103 paragraph 2 of Law No. 35 Year 2009). Rehabilitation of narcotics addicts is also a form of social protection that integrates narcotic addicts into social order so that he no longer performs misuse of narcotics.

The term rehabilitation in Law Number 35 Year 2009 on Narcotics consists of 2 (two), namely:

- a. Medical rehabilitation is an integrated process of treatment activities to relieve addicts from narcotics dependence, in accordance with Article 1 number 16 of Law Number 35 Year 2009 on Narcotics.
- b. Social Rehabilitation is a process of recovery activities in an integrated manner physical, mental and social, so that former drug addicts can re-implement social functions in public life, according to Article 1 number 17 of Law Number 35 Year 2009 on Narcotics.

As for the rehabilitation stages for drug addicts:

- a. The stage of medical rehabilitation (detoxification), this stage of the addict is checked all his health both physically and mentally by a trained doctor. It is the physician who decides whether the addict needs to be given certain drugs to reduce the withdrawal symptoms he suffered. Drug administration depends on the type of drugs and the severity of the symptoms of withdrawal. In this case doctors need sensitivity, experience, and expertise to detect the symptoms of drug addiction.
- b. Stage of nonmedical rehabilitation, this stage addicts participate in the rehabilitation program. In Indonesia already built rehabilitation places, for example under BNN is a place of rehabilitation in the area of Lido (Campus Unitra), Baddoka (Makassar), and Samarinda. In this rehabilitation place, addicts undergo various programs including therapeutic communities (TC), 12 steps (twelve steps), religious approach, etc.
- c. After care, this stage addicts are given activities in accordance with the interests and talents to fill the daily activities, addicts can return to school or workplace but remain under supervision. In every stage of rehabilitation, continuous monitoring and evaluation of the recovery process of an addict is required.

### III. CONCLUSION

The abuse of narcotics depenalization policy is in accordance with the direction of the President of the Republic of Indonesia. Through this policy, victims of narcotics or addicts abuse can be given efforts in the form of rehabilitation and guidance to a better life. This solution is more appropriate than placing the addict or the victim into a correctional institution. Implementation of criminal law in the form of imprisonment for victims of narcotics abuse proved to have failed because it is annually the victim of the perpetrator who entered the prison the number is increasing. With the provision that a judge reviewing a case against a narcotics addict may impose a rehabilitation decision as mentioned in Article 103 above, implicitly Law Number 35 Year 2009 on Narcotics has altered the paradigm that narcotic addicts are not always criminals but are victims of abuse narcotics that he did himself. In the Circular Letter of the Supreme Court (SEMA) Number 4 Year 2010 on the Placement of Narcotics Abuse, the victims of abuse and drug addicts into the Medical Rehabilitation and Rehabilitation Institution are also affirmed on the basis of judges' consideration or reference in imposing rehabilitation sanctions.

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