

IMPLEMENTATION OF CRIMINAL SANCTIONS AGAINST NARCOTICS ADDICTS (Study of District Court Decisions Sei Rampah Number 9/Pid.Sus/2024/PN Srh)

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ABSTRACT

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Drug abuse is classified as a criminal act in Law Number 35 of 2009 concerning Narcotics. The application of the criminal punishment system for perpetrators of drug abuse prioritizes a humanistic approach that pays attention to the principle of individualization of punishment in the use of criminal sanctions as a means of overcoming crime. In essence, perpetrators of drug abuse are also victims who need medical help. The implementation of measures in the form of medical and social rehabilitation aims to improve the condition of drug abusers so that they are free from drug dependence and can return to society normally. The results of the study are the provisions of criminal sanctions for imprisonment and rehabilitation for narcotics addicts of the type of methamphetamine in Law Number 35 of 2009 concerning Narcotics, namely that imprisonment for victims of drug abuse needs to be replaced with rehabilitation measures as adopted in the two-track system in sentencing (double track system).

1. Introduction

As drug abuse continues to rise, the government has taken firm action against syndicates and dealers by imposing harsh penalties, even up to the death penalty. For victims of drug use or addiction, the government has sought to mitigate the negative impacts of drug use by providing rehabilitation facilities, both medical and social. This is intended to enable drug users to recover, become productive individuals, work to support themselves and their families, and become a healthy and strong generation.

Drug users can be distinguished as drug addicts and victims of drug abuse. A drug addict is someone who uses or abuses drugs and is dependent on them, either physically or psychologically. A victim of drug abuse is someone who accidentally uses drugs because they were persuaded, tricked, deceived, forced, and/or threatened to use drugs.



Drug addicts are self-victimizing victims, as they suffer from a dependency syndrome, originally called addiction and habituation, resulting from their own drug abuse. Numerous efforts, particularly by law enforcement, have been made to address the drug problem in Indonesia, but the number of drug addicts has not decreased, and in fact, it tends to increase. One factor contributing to this unresolved problem is the public's perception of drug users as criminals, social outcasts, and various other stigmas, leading to the punishment of drug addicts in prison.

According to the law, drug addicts are, on the one hand, perpetrators of drug abuse crimes, as stipulated in the narcotics law, which regulates the prison sentences imposed on drug abusers. Furthermore, on the other hand, drug addicts are considered victims, as evidenced by the provision that drug addicts can be sentenced to rehabilitation.

2. Research Method

This research is descriptive analytical, which reveals the laws and regulations related to the legal theories that are the object of the research. Descriptive analytical, is a method used to describe a condition or situation that is currently occurring or ongoing, with the aim of providing the most accurate data possible regarding the research object so that it can explore things that are ideal, then analyzed based on legal theory or applicable laws and regulations. This paper describes matters regarding criminal sanctions for drug addicts. The type of research used in this paper is normative legal research. Normative legal research refers to legal norms, specifically examining library or secondary materials

3. Results And Discussion

Indonesia has Law Number 35 of 2009 concerning Narcotics (State Gazette of 2009 Number: 143), dated October 12, 2009, which replaces Law Number 22 of 2007 concerning Narcotics (State Gazette of 2007 Number 67), because as in the consideration section of the Narcotics Law letter e it is stated that Narcotics crimes have become transnational in nature which are carried out using high modus operandi, sophisticated technology, supported by a wide network of organizations, and have caused many victims, especially among the young generation of the nation which is very dangerous for the lives of society, the nation, and the state so that Law Number 22 of 1997 concerning Narcotics is no longer appropriate to the development of the situation and conditions that develop to overcome and eradicate these crimes. Based on the provisions of





Article 153 of the Narcotics Law, that with the enactment of the Narcotics Law, Law Number 22 of 1997 is revoked and declared invalid.

In relation to several legal experts, specifically regarding legal politics, the law is enacted in the form of statutes, which later encounter many obstacles in their implementation, which also stem from the law and the legal politics of its implementation. Some of these experts argue that legal politics itself differs from the opinions of other legal experts on the application of law. Similarly, the opinions of legal experts on what law is are bound to find different answers from one another.

Seen from the perspective of several experts, this is related to the Narcotics Law, namely the Narcotics Law, which was passed on September 14, 2009, is a revision of Law Number 22 of 1997 concerning Narcotics. The government believes that Law Number 22 of 1997 is no longer able to effectively prevent narcotics crimes which have been increasing quantitatively and qualitatively, as well as the form of organized crime. Substantially, significant changes in the Narcotics Law compared to the previous law, are the emphasis on provisions on mandatory rehabilitation, excessive use of criminal penalties, and the very large authority of the National Narcotics Agency (BNN).

Looking at the history of the Narcotics Law, it's implied that it was amended due to shortcomings. Several notable substantive changes between Law Number 22 of 1997 and the Narcotics Law include:

1. Storage restrictions

The public is not permitted to possess narcotics of any type or class, but is restricted to the pharmaceutical industry, pharmaceutical wholesalers, pharmacies, hospitals, community health centers, medical clinics, doctors' offices, and scientific institutions. The public is not permitted to possess narcotics of any type or class.

2. Rehabilitation and treatment matters

Under previous law, patients could possess, store, and/or carry narcotics for their own use, provided they were obtained from a doctor and provided with valid evidence. Under the Narcotics Law, this freedom and voluntary recovery are no longer granted. Addicts are required to undergo medical and social rehabilitation, requiring them to report to community health centers, hospitals, and/or medical and social rehabilitation institutions. This obligation also falls on parents and families. Medical and social rehabilitation can be provided by government agencies or the community, as regulated by a Ministerial Regulation.

3. Regarding the investigative and criminal investigation authority held by the National Narcotics Agency (BNN)





The Narcotics Law provides a significant role for the National Narcotics Agency (BNN) to prevent and eradicate the abuse and distribution of narcotics and narcotic precursors. Furthermore, the BNN can monitor, direct, and enhance the capacity of the community to prevent narcotics abuse by empowering community members. Furthermore, the BNN is authorized to conduct investigations and inquiries into the abuse and distribution of narcotics and narcotic precursors, along with the authority of investigators and investigators, such as arrests for 3 x 24 hours, which can be extended for another 3 x 24 hours, plus wiretapping in carrying out its authority in eradicating narcotics. To prevent and eradicate the abuse and illicit distribution of narcotics and narcotic precursors, whose modus operandi is increasingly sophisticated, the Narcotics Law also regulates the expansion of wiretapping, undercover buying, and controlled delivery techniques, as well as other investigative techniques to track and uncover narcotics abuse and illicit distribution.

4. Rehabilitation decisions for drug addicts

The word "can" in Article 103 paragraph (1) of the Narcotics Law is used to place narcotics users, both guilty and innocent, to undergo treatment and/or care through rehabilitation.

5. Community participation is needed

In addition to the National Police, the National Narcotics Agency (BNN), and other law enforcement agencies, the Narcotics Law also requires the public to play an active role in drug prevention and eradication efforts. This means that the public is empowered, as investigators, to seek, obtain, and provide information and receive services in these areas. The public's participation, protected by the Narcotics Law, legitimizes the public's ability to prevent and eradicate narcotics without any statutory rights.

6. Not prioritizing the element of intent

The use of the words "any person without rights and against the law" in several articles of the Narcotics Law without considering the element of intent, can ensnare people who actually have no intention of committing narcotics crimes, either because of coercion, pressure, or ignorance. This has the potential to ensnare people to be made suspects in narcotics crimes unintentionally, either because they are "trapped" by others or due to lack of knowledge of the types of narcotics available or other possible conditions such as: receiving goods from others to be delivered to a place and without their knowledge there are narcotics hidden in the goods, receiving packages from the post and other conditions.

7. Use of the minimum penalty system





The use of the minimum sentence system in the Narcotics Law reinforces the assumption that the law was enacted to criminalize those involved in drug trafficking. The use of minimum sentences also restricts judges' discretion in issuing sentences, although in practice, judges can impose sentences less than the minimum sentence, as permitted by the Chief Justice of the Supreme Court.

8. Equal punishment for attempted and completed crimes

Other criminal laws differentiate punishment between a completed crime and an uncompleted crime (attempted crime), while the Narcotics Law equates the criminal penalties for perpetrators with uncompleted crimes with those with unprobationary crimes. Narcotics crimes are crimes because they have negative consequences. Attempted crimes require that a crime occur, but the crime is not completed, so the punishment for perpetrators with unprobationary crimes and those with uncompleted crimes should be differentiated.

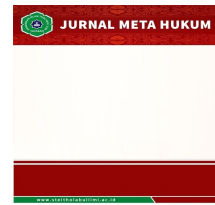
According to the law, drug addicts are, on the one hand, perpetrators of the crime of drug abuse, as stipulated in the narcotics law, which regulates the prison sentences imposed on drug abusers. Furthermore, on the other hand, it can be said that according to the narcotics law, drug addicts are victims, as indicated by the provision that drug addicts can be sentenced to rehabilitation. This means that the law still considers drug addicts as perpetrators of criminal acts, on the one hand, and on the other hand, as victims of their drug abuse.

The Narcotics Law regulates criminal provisions for narcotics abuse, namely:

1. Article 116 of the Narcotics Law:

- a. Any person who, without right or against the law, uses Class I Narcotics against another person or provides Class I Narcotics for use by another person, shall be punished with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least Rp. 1,000,000,000.00 (one billion rupiah) and a maximum of Rp. 10,000,000,000.00 (ten billion rupiah).
- b. In the case of the use of narcotics against another person or the provision of Class I Narcotics for use by another person as referred to in paragraph (1) resulting in the death or permanent disability of another person, the perpetrator shall be punished with the death penalty, life imprisonment, 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).

2. Article 121 of the Narcotics Law:



- a. Any person who, without right or against the law, uses Class II Narcotics against another person or provides Class II Narcotics for use by another person, 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 Rp. 800,000,000.00 (eight hundred million rupiah) and a maximum of Rp. 8,000,000,000.00 (eight billion rupiah).
 - b. In the case of the use of narcotics against another person or the provision of Class II narcotics for use by another person as referred to in paragraph (1) resulting in the death or permanent disability of another person, the perpetrator shall be punished with the death penalty, life imprisonment, 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).
3. Article 127 of the Narcotics Law:
- a. Every Abuser:
 - 1) Class I narcotics for personal use are punishable by a maximum prison sentence of 4 (four) years.
 - 2) Class II narcotics for personal use are punishable by a maximum prison sentence of 2 (two) years.
 - 3) Class III narcotics for personal use are punishable by a maximum prison sentence of 1 (one) year.
 - b. In deciding a case as referred to in paragraph (1), the judge must pay attention to the provisions as referred to in Article 54, Article 55, and Article 103.
 - c. In the event that the abuser as referred to in paragraph (1) can be proven or proven to be a victim of narcotics abuse, the abuser is required to undergo medical rehabilitation and social rehabilitation.

If a perpetrator has fulfilled the requirements to be held criminally responsible, and in this case it is related to narcotics abuse, then the person can be sentenced according to the provisions of the Narcotics Law, namely:

1. The existence of a conscious intention aimed at committing the crime of drug abuse means that the element of intent has been fulfilled, which is part of the element of guilt.
2. Being accountable for his actions in abusing narcotics means that he is in a mental state of the perpetrator, who has sufficient reason and will, therefore he is capable of understanding the meaning of his actions in abusing narcotics and in accordance with that view to determine his will to carry out the act. The ability to think is found in normal people and therefore the ability to think can be assumed in the perpetrator. In other words, the criminal act can





be held accountable to the perpetrator of narcotics abuse if the perpetrator has the ability to think and realize the meaning of his actions.

3. Criminal liability requires the perpetrator to be capable of taking responsibility, as it is impossible to hold someone accountable if they are not capable of taking responsibility. Simons states that the capacity to take responsibility is a psychological condition that justifies the application of a criminal sanction, whether viewed from a general or individual perspective. In this case, the perpetrator can be sentenced for drug abuse if they are mentally sound, namely if:
 - a. Able to understand the value of the consequences of abusing narcotics.
 - b. Able to know or realize that his actions of abusing narcotics are against the law.
 - c. Able to determine his will according to that awareness.
4. Does not fulfill the requirements for reasons for expungement of criminal penalties, and in the case of narcotics abuse, if the perpetrator does not intentionally use narcotics because he was persuaded, tricked, deceived, forced, and/or threatened to use narcotics, then in accordance with the provisions of Article 54 of the Narcotics Law, he is a victim of narcotics abuse who is required to undergo rehabilitation.

According to the laws and regulations governing narcotics, legally recognized narcotics addicts are divided into two, namely:

Indonesia has a Narcotics Law, which, in Article 54, states that drug addicts and victims of drug abuse are required to undergo medical and social rehabilitation. For addicts, therapy and rehabilitation are the best course of action. Addiction is a disease that must be treated, not punished.

The provisions regarding mandatory reporting for a drug abuser who is a drug addict are increasingly emphasized by the issuance of Government Regulation Number 25 of 2011 Concerning the Implementation of Mandatory Reporting for Narcotics Addicts, it is explained in this Government Regulation that mandatory reporting is an activity of reporting oneself carried out by drug addicts who are of age or their families, and/or parents or guardians of drug addicts who are not of age to institutions receiving mandatory reporting to receive treatment and/or care through medical rehabilitation and social rehabilitation. Government Regulation Number 25 of 2011 regulates more clearly that Institutions Receiving Mandatory Reporting are community health centers, hospitals, and/or medical rehabilitation institutions and social rehabilitation institutions appointed by the Government.

Mandatory Reporting can be done by parents or guardians of underage drug addicts and adult drug addicts or their families. Article 4 states that Mandatory





Reporting of Narcotics Addicts is done at Mandatory Reporting Receiving Institutions, Community health centers, hospitals, and/or medical rehabilitation institutions as Mandatory Reporting Receiving Institutions determined by the Minister of Health, Social rehabilitation institutions as Mandatory Reporting Receiving Institutions determined by the minister who organizes government affairs in the social sector.

This Government Regulation also regulates the procedures for mandatory reporting, as explained in Article 6 which states that mandatory reporting is carried out by reporting narcotics addicts to the institution that receives mandatory reporting. In the case of reports made other than at the institution that receives mandatory reporting, the officer who receives the report forwards it to the institution that receives mandatory reporting.

Article 7 explains that the Mandatory Reporting Receiving Institution as referred to in Article 6 is required to conduct an assessment (assessment is a stage in pre-therapy for prospective patients to assess the level of severity and/or determine the need for healing) on drug addicts to determine the condition of drug addicts, the Assessment includes medical and social aspects. Article 8 states that the Assessment is carried out by means of interviews, observations, and physical and psychological examinations of Drug Addicts. Interviews include medical history, history of drug use, history of treatment and care, history of involvement in criminal acts, psychiatric history, as well as family and social history of drug addicts. Observations carried out include observations of the behavior of Drug Addicts.

Article 9 explains the post-assessment phase, namely the assessment results are recorded in the medical record or behavioral change records of the Narcotics Addict. The assessment results are confidential and form the basis for the rehabilitation plan for the Narcotics Addict in question. The confidentiality of the assessment results is carried out in accordance with the provisions of laws and regulations. The rehabilitation plan is then agreed upon by the narcotics addict, parents, guardians, or family of the narcotics addict and the head of the Institution Receiving Mandatory Reports

4. Conclusion

The provisions on criminal sanctions for methamphetamine addicts in Law Number 35 of 2009 concerning Narcotics may be subject to criminal sanctions of imprisonment and/or rehabilitation. Criminal sanctions of imprisonment will be imposed on the abuse of class I narcotics for oneself, a maximum prison sentence of 4 years, possession of narcotics (including methamphetamine) in





accordance with Article 112 of the Narcotics Law, a prison sentence of 4 to 12 years for possession of methamphetamine. A prison sentence of 5 to 20 years if possession of more than 5 grams while offering, selling, buying, or handing over narcotics (including methamphetamine), a life sentence or a minimum of 5 years. Rehabilitation sanctions are given to narcotics addicts and victims of narcotics abuse are required to undergo medical and social rehabilitation in accordance with Article 54 of the Narcotics Law.

The objectives of criminal punishment to be achieved through criminal sanctions against drug addicts is imprisonment for drug abusers, especially drug addicts, will not address the root of the problem if the perpetrators are not provided with treatment to break free from their dependence on drugs. Drug addicts require special treatment, both medical and social, to enable them to reintegrate into society normally. The implementation of rehabilitation measures for drug addicts reflects a humanistic approach to law enforcement against drug abusers. This law requires judges to carefully consider the circumstances and interests of the perpetrators. Legal sanctions should not simply be used as a means of retribution but should also be able to reintegrate the perpetrators into society. In other words, this law is also oriented towards protecting the perpetrators' interests.

The judge's legal considerations in impose a sentence on a drug addict in a verdict Sei Rampah Court Case Number 9/Pid.Sus/2024/PN Srh is At the time of the response, evidence was found in the form of class I narcotics in the form of crystal methamphetamine weighing no more than 1 (one) gram for one day's use, and there was a laboratory test letter where the defendant's urine tested positive for narcotics and in court the defendant was not proven to be involved in the illegal distribution of narcotics, but the defendant bought it for his own use

References

Darmono, Toxicology of Drugs and Alcohol, UI Press, Jakarta, 2015.

Directorate of Community Guidance of the Indonesian National Police, Combating the Dangers of Narcotics Abuse, Directorate of Community Guidance of the Indonesian National Police, Jakarta, 2012.

Firmanzah et al., Overcoming Drugs with Compassion, Gramedia Pustaka Utama, Jakarta, 2011.

FR, Juliana Lisa and Nengah Sutrisna, Narcotics, Psychotropics and Mental Disorders: Health and Legal Review, Nuha Medika, Yogyakarta, 2013.





Hawari, Dadang, *Narcotics Abuse & Addiction.*, Faculty of Medicine, University of Indonesia, Jakarta, 2012.

Ichsanul, Andre, *Drug Rehabilitation*, Ghalia Indonesia, Bogor, 2017.

Kaligis. OC. *Drugs and Justice in Indonesia: Criminal Law Reform Through Legislation and Justice*, Ghalia Indonesia, Jakarta, 2007.

Krisnawaty, Dani and Eddy OS Hiariej, *Anthology of Special Criminal Law*, Pena Pundi Aksara, Jakarta, 2006.

National Narcotics Agency, *Guidelines for Preventing Drug Abuse for Teenagers*. BNN, Jakarta, 2014.

National Narcotics Agency, *Portrait of the Effectiveness of Narcotics Abuse Rehabilitation in Correctional Institutions*, Center for Research, Data, and Information of the National Narcotics Agency of the Republic of Indonesia, Jakarta, 2020.