

LEGAL REVIEW OF CRIMINAL PRISON AND REHABILITATION FOR NARCOTICS ABUSE ADDICTS

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ABSTRACT

The application of the criminal punishment system to perpetrators of drug abuse crimes prioritizes a humanistic approach that considers the principle of individualization of punishment in the use of criminal sanctions as a means of overcoming crime. The application of actions in the form of medical and social rehabilitation aims to improve the condition of drug abusers so that they are free from drug dependence so that they can return to society naturally. The imposition of criminal penalties on drug abusers is considered inappropriate because the existence of Article 103 of the Narcotics Law contains elements that are in accordance with the purpose of its issuance, namely, preventing, protecting, and saving the Indonesian nation from drug abuse so that the imposition of rehabilitation sentences for drug abusers can be carried out simultaneously instead of imposing prison sentences. The judge's legal consideration in imposing a prison sentence and rehabilitation for drug users is that when arrested, evidence was found in the form of class I narcotics, type 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 using narcotics and in court the defendant was not proven to be involved in the illicit trafficking of narcotics, but the defendant bought it for his own use.

1. Introduction

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, being persuaded, tricked, deceived, forced, and/or threatened into using drugs.

Drug addicts are self-victimizing victims because they suffer from dependency syndrome, originally called addiction and habituation, resulting from their own drug abuse. Numerous efforts to resolve the drug problem in Indonesia, especially by law enforcement, have been made, but the number of drug addicts has not decreased, and in fact, is increasing. 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 can be considered victims, as evidenced by the provision that drug addicts can be sentenced to rehabilitation.

Article 103 of Law Number 35 of 2009 concerning Narcotics states that judges examining drug addict cases can take two actions: first, the judge can order the addict to undergo treatment and/or care if the drug addict is proven guilty of a drug crime; second, the judge can order the addict to undergo treatment and/or care/rehabilitation if the drug addict is not proven guilty of a drug crime.

If a drug addict has been found guilty by a judge for a drug-related offense, to provide them with an opportunity to recover from their addiction, the judge may order them to undergo treatment and/or care. Similarly, if the addict is not found guilty of a drug-related offense, meaning they were simply a drug user who succumbed to inducement, the judge may order them to undergo treatment and/or care.

The punishment of drug users is inseparable from the criminal justice system adopted by the Indonesian legal system. The purpose of the criminal justice system is essentially the operationalization of law enforcement carried out by the judicial system based on the legal framework that criminalizes drug abuse and illicit trafficking, namely Law Number 35 of 2009 concerning Narcotics.

Empirical evidence in the field shows that judges tend to impose prison sentences on drug addicts. As a result, drug addicts languish in prison without the opportunity for rehabilitation, thus hindering optimal rehabilitation. Given these circumstances, the drug problem will undoubtedly remain unresolved, as it would be tantamount to confining addicts to prison without any attempt at treatment, and could even lead them into illicit drug trafficking. Drug addicts are inherently addictive and have a high relapse rate, meaning they cannot recover on their own; they need help to recover.

2. Research Method

This research is descriptive and analytical, revealing laws and regulations related to the legal theories that are the object of the study. Descriptive and analytical methods are used to describe a current or ongoing condition or situation. The goal is to provide as accurate data as possible regarding the research object, allowing for the exploration of ideals and then analyzing them based on applicable legal





theories and regulations. This paper outlines matters concerning imprisonment and rehabilitation for drug addicts.

This research utilizes materials obtained from library research. Secondary data, including primary, secondary, and tertiary legal materials, were collected from library research. In normative research, the data required is secondary data. This secondary data has a very broad scope, encompassing personal letters, diaries, and official documents issued by the government.

The approaches used in this research are the statute approach and the case approach in analyzing the Supreme Court Decision Number 3749 K/Pid.Sus/2020 (case study). The case approach is conducted by examining cases related to the legal issue at hand, which have become final and binding court decisions.

Data collection focused on the underlying issues, ensuring that the research avoids any deviations or ambiguities in the discussion. Data collection in this research utilizes both primary and secondary data.

To obtain objective, verifiable, and accountable results, the data in this study were obtained through library research, a method used to collect data through a review of library materials or secondary data, including primary, secondary, and tertiary legal materials.

3. Results And Discussion

Results

The integrative theory of the purpose of punishment is based on the basic assumption that criminal acts disrupt the balance, harmony, and harmony of social life, causing harm to individuals and society. The purpose of punishment is to repair the damage caused by the crime.

Prevention of drug crimes can be divided into two categories: first, the application of Article 127 of Law No. 35 of 2009 concerning Narcotics through medical and social rehabilitation; and second, various efforts, such as campaigns, education, and counseling regarding narcotics, ensure that narcotics are not consumed improperly.

These efforts aim to improve the attitudes or behavior of the convicted person, while also deterring others from committing similar acts. This perspective is said to be forward-looking and simultaneously deterrent.

Drug abuse has been classified as a criminal offense as stipulated in Article 1 of Law Number 35 of 2009, which states that a drug abuser is a person who uses narcotics without authorization or against the law. Drug abusers may be classified as drug addicts or victims of drug abuse.





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According to Law Number 35 of 2009, the provisions governing the imprisonment imposed on drug abusers are also considered victims. This is demonstrated by the provision that drug addicts can be sentenced to rehabilitation.

Dependence on drugs is also a contributing factor to unlawful behavior. Of course, such conditions must be treated differently from those who intentionally profit from the illicit drug trade. Drug abusers are likely already addicted, making it difficult to break free from the clutches of drug use without professional help.

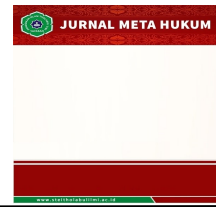
The imposition of imprisonment on drug abusers, especially drug addicts, is seen as inappropriate because imprisonment only inflicts suffering on the perpetrator without curing their dependence on drugs. Furthermore, imprisoning drug addicts opens the opportunity for them to become drug dealers or even commit other crimes, as prison conditions in Indonesian correctional institutions are not optimal in providing guidance to their inmates.

The imposition of penalties on drug abusers is expected not only to provide a deterrent effect but also to serve as a means of combating crime. A humanistic approach must also be considered in imposing legal sanctions on drug abusers. This humanistic approach requires attention to the principle of individualization of punishment in the use of criminal sanctions as a means of combating crime.

4. Discussion

In every narcotics case, law enforcement officials, and even the decision-makers, proceed from the same regulation: Law Number 35 of 2009 concerning Narcotics, a special regulation that deviates from the criminal justice system currently in effect in Indonesia. It is special because this law adopts a double-track criminal system for drug abusers, with all courts in Indonesia obligated to sentence them to rehabilitation, while dealers are sentenced to imprisonment or death.

However, in Indonesia, judges still sentence drug abusers to imprisonment without rehabilitation. This clearly ignores the essence of existing regulations. Another impact is the burden on the state, which must finance the costs of drug convicts while they serve their sentences in correctional institutions. According to Article 112 of Law Number 35 of 2009 concerning Narcotics, any person who unlawfully or unlawfully possesses, stores, controls, or supplies Class I narcotics other than plants shall be subject to a minimum prison sentence of four years and a maximum of twelve years and a fine of at least IDR 800 million and a maximum



of IDR 8 billion. This article is what makes drug users liable to imprisonment. Judges, under the concept of rehabilitation, can order drug users to undergo medical rehabilitation or social rehabilitation in an effort to return them to a normal life.

Rehabilitation is far better than imprisonment because rehabilitated users recover from their addiction and will no longer use illicit substances. This is because the legal framework in this country adheres to a double-track sentencing system, which essentially means that users who are sentenced to a criminal offense are served their sentence for rehabilitation. Rehabilitation is not carried out in correctional institutions but in special rehabilitation facilities.

Rehabilitation is one way to save drug users from dependence. Article 54 of Law Number 35 of 2009 concerning Narcotics states that drug addicts and victims of drug abuse are required to undergo medical and social rehabilitation. Article 103 of Law Number 35 of 2009 concerning Narcotics authorizes judges to order drug addicts and victims of drug abuse as defendants to undergo rehabilitation through their verdicts if they are found guilty of drug abuse.

Imprisonment of drug and dangerous drug users has proven ineffective. One permitted measure is rehabilitation for drug users, which also allows for criminal penalties. However, lawmakers have also accommodated actions for users. Judges, when deciding cases of drug abuse, must comply with the provisions stipulated in Articles 54, 55, and 103 of Law Number 35 of 2009 concerning Narcotics. Article 54 of Law Number 35 of 2009 concerning Narcotics mandates that drug addicts and victims of drug abuse undergo medical and social rehabilitation.

The public is afraid to voluntarily report for medical treatment, and a persistent obstacle is that drug users sometimes only consider rehabilitation after they have been caught by the law. However, whether caught by the law or not, every drug user should receive immediate assistance through rehabilitation. Therefore, it is crucial for the surrounding community, especially families as the closest circle, to be sensitive to their family members. If anyone is involved in a drug abuse case, they should act immediately by seeking out a rehabilitation institution for drug addicts.

The high threat of punishment for drug users, coupled with the lack of regulation of access to health and social approaches through rehabilitation for users, results in many drug users being punished without access to health and rehabilitation. Criminalization approaches without considering access to medical and social rehabilitation will not solve the problem of illicit drug trafficking, as the cycle will repeat itself after users are released from prison. Worse, the criminal approach has





resulted in problems shifting to detention facilities, where the illegal circulation of narcotics within detention facilities has become increasingly widespread.

Legal action taken against victims of drug abuse during criminal proceedings is rehabilitation, as rehabilitation is one of the government's efforts to combat drug abuse. The determination of rehabilitation for victims of drug abuse is an alternative punishment imposed by a judge and is calculated as part of the sentence served. Legal action in the form of rehabilitation is a process of rehabilitating clients with drug use disorders, both over a specific period, with the aim of changing behavior and reestablishing the individual's function in society as they were before they started using drugs.

Similarly, rehabilitation and prevention (as the main goal of this type of action/treatment sanction) are implemented. While this method has the advantage of resocializing the offender, which is expected to restore the individual's social and moral qualities so they can reintegrate into society, it has proven ineffective in reforming criminals due to its perceived overindulgence. In fact, as C.S. Lewis argued, rehabilitation, which relies on treatment, has led to individual tyranny and a denial of human rights.

With this awareness, the double-track system requires that both the elements of retribution/suffering and the elements of development be equally accommodated within the criminal law sanction system. This is the basis for explaining why the double-track system requires equality between criminal sanctions and disciplinary sanctions.

The disciplinary sanctions can achieve the goal of punishment, which is rehabilitation. The goal theory also considers punishment as a path to reform or rehabilitation for convicts. Mistakes or criminal acts are considered a social disease that disintegrates society. Crime is also interpreted as a symptom of mental disharmony or personal imbalance that requires psychiatric therapy, counseling, spiritual practices, and so on.

Therefore, the hallmark of this view is that punishment is a social and moral healing process for a convict so that he can reintegrate into his community or society properly. In utilitarian terms, it can be said that the preventive effect of this rehabilitation process is primarily focused on the convict. Punishment, in the form of legal action in the form of rehabilitation, is a social and moral healing process for a convict so that he can reintegrate into his community or society properly.

Drug addicts, both physically and psychologically, require medical and social assistance. Therapy used to eradicate addiction cannot be achieved through imprisonment alone. Imprisonment for addicts is ineffective in curing their drug





dependence. What's the point of incarcerating drug addicts without treatment? Once released, they will remain addicts.

Implementing rehabilitation for drug addicts still faces several obstacles. Sometimes, drug users only consider rehabilitation after they have been caught in a legal dispute. Every drug user should receive immediate assistance through rehabilitation before or after being caught. The surrounding community, especially the family, needs to be sensitive to their family members. If anyone is involved in a drug abuse case, they should act immediately by seeking out a rehabilitation facility for drug addicts.

5. Conclusion

The goal of sentencing, intended to be achieved through imprisonment and rehabilitation for drug addicts, is that sentencing drug abusers is considered inappropriate. Article 103 of the Narcotics Law contains elements consistent with its stated purpose: to prevent, protect, and save the Indonesian nation from drug abuse. Therefore, rehabilitation for drug abusers can be implemented simultaneously, rather than imposing prison sentences. Imposing prison sentences on drug abusers is not an appropriate solution, and it can also harm state finances by using prisons for other purposes.

Obstacles to rehabilitating drug users include regulations on drug crimes, facilities and infrastructure, and financing. Efforts to overcome the obstacles encountered include submitting a proposal to the President and the House of Representatives (DPR) to revise Law Number 35 of 2009 concerning Narcotics, educating several human resources in correctional institutions to carry out rehabilitation in correctional institutions and developing programs in accordance with the budget allocated by the government, increasing the rehabilitation budget by continuously striving to submit a larger budget to the government to ensure smooth rehabilitation implementation, so that the goals and objectives of rehabilitation through existing programs can be realized and achieved.

The judge's legal considerations in imposing imprisonment and rehabilitation for drug users in Supreme Court Decision Number 3749 K/Pid.Sus/2020 include the discovery of evidence in the form of Class I narcotics, such as methamphetamine, weighing no more than 1 (one) gram (sufficient for one day's use), and the presence of a laboratory test letter showing the defendant's urine tested positive for narcotics. The trial found that the defendant was not involved in illicit drug trafficking, but rather purchased the drugs for his own use.

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