

RECONSTRUCTION OF A REHABILITATION APPROACH FOR VICTIMS OF DRUG ABUSE WITH COMMUNITY-BASED INTERVENTION WITH JUSTICE VALUES

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Abstract

The method of handling victims of drug abuse can be done through community-based rehabilitation with therapy methods using a psychosocial approach. Community-based Social Rehabilitation still faces challenges in its implementation. The purpose of this study is to reconstruct the rehabilitation approach for victims of drug abuse with community-based interventions with justice values in order to provide legal protection to victims of drug abuse and reform the Indonesian narcotics criminal law. The research method used is legal research with a statutory regulatory approach, a comparative approach, and a conceptual approach. Based on the research that has been done, it is known that regulations regarding the rehabilitation of victims of drug abuse with a community-based intervention approach still require synchronization of cooperation between the National Narcotics Agency and Regional Governments. because the implementation of community-based interventions without involving Regional Apparatus Organizations causes suboptimal gradual handling programs for victims of drug abuse. In addition, there is an urgency to carry out reconstruction based on the principle of justice referring to the purpose of rehabilitation as treatment or care for drug addicts, so that addicts can recover from their addiction to narcotics.

Keywords: Rehabilitation Approach: Victims of Drug Abuse, Community-Based Intervention

A. INTRODUCTION

Indonesia, as one of the most populous countries in the world, estimated at 286 million people, still faces challenges in handling drug abuse. According to data from the National Narcotics Agency (BNN) throughout 2023, the number of drug users reached 3.3 million, proving that the handling and prevention of drug use remains a concern. Prevention and eradication of drug abuse and illicit trafficking and persecution are efforts to maintain and improve the health of human resources as one of the assets of national development. The negative impacts of drug use include psychotic symptoms (smiling to oneself, hallucinations, appearing to talk to oneself), attention deficit disorder (concentration), anxiety/restlessness, sleep disturbances, increased/decreased emotions, decreased/excessive appetite, excessive fear, feeling suspicious and the desire to harm oneself. In addition, drug use causes unrest in the community by encouraging criminal acts by drug abusers such as theft, brawls, gambling and prostitution.⁴ The policy of prioritizing rehabilitation for drug abusers aims to reduce overcrowding in correctional institutions. Drug addicts undergoing medical and social rehabilitation is one of the government's efforts to encourage drug addicts to recover from their addiction. In the rehabilitation process, drug abusers are not objects but subjects, as the success or failure of the rehabilitation process is largely determined by their own actions. Rehabilitation sanctions for drug victims are not only an alternative to address the problem of limited detention capacity, because criminal sanctions are considered ineffective for behavioral change. Prevention programs, Article 57 of Law Number 35 of 2009 concerning Narcotics provides an opportunity for the healing of drug addicts to be carried out through religious and traditional approaches, this provides an opportunity for the community to

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⁴National Narcotics Agency Data Research and Information Center (Puslitdatin BNN), **Report on the Results of the Measurement of the Prevalence of Drug Abusers 2023**, Jakarta, 2023, p. 53.

participate in social rehabilitation as stated in the Regulation of the Minister of Social Affairs of the Republic of Indonesia Number 26 of 2012 concerning Rehabilitation Standards for Victims of Narcotics Abuse, Psychotropics and Other Addictive Substances. Rehabilitation programs for drug abuse victims in Indonesia include medical, social, and psychological rehabilitation. The rehabilitation process aims to improve an individual's quality of life by providing emotional support and necessary life skills. Rehabilitation for drug abuse victims is implemented by various institutions, such as the National Narcotics Agency (BNN), hospitals certified for the treatment of drug addicts, and private rehabilitation institutions. However, the impact of rehabilitation programs on post-rehabilitation quality of life remains a matter of debate, as many individuals relapse into drug abuse after rehabilitation.

The rehabilitation process for drug abusers begins with detoxification through medical therapy to address addiction, psychosocial therapy to address mental and emotional issues, and life skills training to address post-rehabilitation social and economic challenges. However, effective rehabilitation requires family, community, and social support, which are crucial for the recovery process, as well as for establishing job opportunities and a conducive post-rehabilitation environment. Treatment methods for drug abuse victims include community-based rehabilitation with a psychosocial approach. This psychosocial approach, through community therapy activities, is designed to help drug abusers change their behavior and adopt new, more harmonious and constructive ways of interacting with others. Community-based rehabilitation is an alternative to institutional rehabilitation, utilizing the active participation of the community, monitored continuously through counseling to foster positive behavior.

Community-based rehabilitation consists of four components, namely: 1) *behavior management shaping* with the formation of behavior directed to manage their lives with the values and norms of good social life; 2) *Emotional and psychological* with the formation of emotional control skills to be able to adjust and self-confidence in society; 3) *Intellectual and spiritual* development of thinking and spirituality directed at increasing aspects of knowledge, spiritual values, morals and ethics; 4) work skills that emphasize the rehabilitation process with productive skill activities to be able to create a sense of self-confidence and responsibility for drug abusers so that they can be productive and useful after rehabilitation. These four components need to be supported by the presence of a community as one of the factors that influence a person to be accepted back into their environment by monitoring post-rehabilitation activities.

The National Narcotics Agency has implemented a community-based social rehabilitation program called Community-Based Rehabilitation (RBM) and Community-Based Intervention (IBM). The RBM program is a program that aims to optimize the role of village officials to embrace their residents who are indicated to be using drugs but are afraid to report themselves for rehabilitation, while the IBM program focuses on the rehabilitation of drug abusers designed by, from, and for the community called Recovery Agents by utilizing community facilities and potential with local wisdom.⁵ Community-based Social Rehabilitation still faces challenges in its implementation because placing the community as one of the pillars of rehabilitation requires a structured and constructive mechanism by the Ministry that handles government affairs in the social sector and the National Narcotics Agency. The challenge that will be faced is the framework for developing human resource capacity and increasing capacity in sectoral agencies that are not yet optimal. Thus, Community-based Social Rehabilitation will run effectively if there is coordination between policy makers, standardization of procedures in rehabilitation with the community, and sustainability of post-rehabilitation programs.

Community-based Social Rehabilitation is implemented in several regions using communities, namely embracing the community and also the existence of recovery agents who have been fostered by the National Narcotics Agency for the sustainability of the rehabilitation process. Community-based Social Rehabilitation has been regulated in laws and regulations, including: Law Number 35 of 2009 concerning Narcotics; BNN Regulation Number 6 of 2022 concerning the Implementation of Sustainable Rehabilitation regulates in detail the rehabilitation services provided by institutions (institutions) and non-institutions (community-based); BNN Regulation Number 9 of 2018 concerning the Implementation of Rehabilitation for Narcotics Addicts and Victims of Narcotics Abuse in Rehabilitation Institutions organized by the Community which specifically regulates how rehabilitation institutions established by the community can operate; and Minister of Social Affairs Regulation Number 16 of 2020 concerning Social Rehabilitation Assistance regulates social rehabilitation programs, including the role of the community in their implementation. Evaluation of various community-based social rehabilitation programs shows differences in their effectiveness. The implementation of community-based social rehabilitation still encounters obstacles in the legal framework which is only based on institutional regulations not based on statutory regulations. This causes the lack of national uniformity regarding the implementation of integrated community-based social rehabilitation between institutions and the community. In addition, indicators of success in the implementation of integrated

⁵Agus Irianto, et al., **War on Drugs in Indonesia**, Center for Research, Data, and Information of the National Narcotics Agency of the Republic of Indonesia, Jakarta, 2022, p. 549.

community-based social rehabilitation. There is still inconsistency in the implementation of community-based social rehabilitation between institutions and the community based on the absence of a legal basis that specifically regulates the implementation and the absence of standardization of integrated community-based social rehabilitation between institutions and the community, resulting in the less than optimal implementation of rehabilitation for drug abusers that is just and can be accepted back into society. Based on the above considerations, this study aims to reconstruct the rehabilitation approach for victims of drug abuse with community-based interventions with justice values in order to provide legal protection to victims of drug abuse and reform the Indonesian narcotics criminal law. The main problem is focused on the rehabilitation method with a community-based intervention approach (IBM), because the implementation model of social rehabilitation for victims of drug abuse that accommodates the role of the community is still not clear and detailed. The formulation of the concept of regulating the rehabilitation of drug abusers based on such is considered important for the government, society and drug abusers in order to create an integrated ecosystem in implementing rehabilitation based on the theory of justice. Based on the explanation above, the researcher is interested in conducting legal research entitled "Reconstruction of the Rehabilitation Approach for Victims of Narcotics Abuse with Community-Based Interventions with Justice Values".

B. RESEARCH METHODS

The author conducted legal research in this paper. Legal research is a series of activities that use scientific methods to seek the truth in a systematic, comprehensive, and consistent manner. In this research, the researcher uses 3 (three) approaches, namely the comparative legal approach, the statute approach, and the conceptual approach. The comparative approach is carried out by comparing the laws of a country with the laws of other countries regarding rehabilitation for drug abusers that apply in several countries, including Malaysia, Portugal, and Australia. The statute approach is carried out by identifying, analyzing, and reviewing legal norms contained in laws and regulations, both vertical (hierarchical relationships between the Constitution, laws, government regulations, and technical regulations) and horizontal (conformity and synchronization between regulations of the same level). The conceptual approach in legal research is a perspective used by researchers by starting from the concepts, principles, and legal doctrines that have developed in legal science.

Legal materials search techniques are methods or approaches researchers use to obtain, identify, and classify legal sources relevant to the research problem. This process involves systematically locating primary legal materials (such as laws and regulations from other countries) and secondary legal materials (books, journals, scientific articles, and research findings) to support the analysis. The legal material analysis technique that will be used by researchers is the prescriptive analysis method. Research analysis aimed at getting advice on what should be done to overcome certain problems which produces new arguments as prescriptions for solving the problems faced. Prescriptive analysis is coherence between legal norms and legal principles, coherence between legal rules and legal norms, and coherence between individual behavior and legal norms.

C. RESEARCH RESULTS AND DISCUSSION

1. Community-Based Intervention Approach Rehabilitation Arrangement

Drug abusers in Indonesia can be categorized into three groups: drug producers, who make drugs for distribution; drug dealers, who actively buy and sell drugs; and drug users, who are consumers at the top of the drug distribution chain. Several terms related to the concept of drug abuse levels can be classified as follows:⁶

- a. *Abstinence*, which is a period where a person does not use drugs at all for recreational purposes;
- b. *Social use*, which is the period when someone has started trying drugs for recreational purposes but it does not have an impact on their life, meaning that the user can still control the level of narcotic use;
- c. *Early Problem Use*, which is the period where an individual has abused addictive substances and the abuser's behavior has had an effect on the abuser's social life, such as being lazy about going to school, only socializing with certain people, and so on.
- d. *Early Addiction*, a condition where drug abusers have shown physical and psychological dependence, so that this behavior disrupts their social life. Drug abusers have difficulty adapt to normal life patterns, and tend to do things that violate prevailing values and norms.
- e. *Substance Addiction* is the stage where someone survives by using narcotics because their addiction has led to a neglect of their personal and social lives. Drug users at this stage are able to consciously commit crimes to satisfy their need for narcotics.

Based on Law Number 35 of 2009 concerning Narcotics, Narcotics Users are divided into 3, namely:

⁶Budi Kurniapraja, *Level of Drug Abuse, Sinar Information & Communication Media, National Narcotics Agency, PT Trubus Swadaya, Depok, 2011, p. 45.*

RECONSTRUCTION OF A REHABILITATION APPROACH FOR VICTIMS OF DRUG ABUSE WITH COMMUNITY-BASED INTERVENTION WITH JUSTICE VALUES

Kevin Krissentanu Winner et al

- a. A drug addict is a person who uses or abuses narcotics in a state of dependence on narcotics, both physically and psychologically.
- b. Drug abusers are people who use narcotics without permission or against the law.
- c. A victim of narcotics abuse is someone who accidentally uses narcotics because they are persuaded, tricked, deceived, forced, and/or threatened to use narcotics.

The definition in the narcotics law sometimes has a broad meaning in practice. A drug abuser can be defined as a producer, distributor, or user. This is because unauthorized and unlawful elements are present throughout the production process and the use of narcotics. Both perpetrators and victims of narcotics crimes can be classified as drug abusers. This ambiguity leads to numerous misinterpretations in law enforcement. Drug abuse victims play a functional role in the commission of a crime. The perpetrator can cause others to become victims, and the relationship between the victim and the perpetrator is a causal one. The perpetrator's actions result in a crime, and the victim, who is the target of the perpetrator's actions, causes the victim to suffer because of the crime.⁷

The position of drug abusers and drug addicts as stated in several regulations of law enforcement officials include:

- a. Joint Regulation of the Chief Justice of the Supreme Court of the Republic of Indonesia, Minister of Law and Human Rights, Minister of Health of the Republic of Indonesia, Minister of Social Affairs 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 Indonesian Narcotics Agency Concerning Handling of Narcotics Addicts and Victims of Narcotics Abuse to Rehabilitation Institutions, states that Narcotics Addicts and Victims of Narcotics Abuse as suspects and/or defendants in Narcotics abuse who are undergoing investigation, prosecution and trial in court can be given treatment, care and recovery at medical rehabilitation institutions and/or social rehabilitation institutions.
- b. Regulation of the Head of the Criminal Investigation Agency of the Republic of Indonesia National Police Number 1 of 2016 concerning Standard Operations and Procedures for Handling Narcotics Addicts and Victims of Narcotics Abuse into Rehabilitation Institutions, in the regulation it is stated that Narcotics Addicts and Victims of Narcotics Abuse can apply for the right to obtain medical rehabilitation and social rehabilitation based on their own or family's initiative, and requests from investigators. Rehabilitation applications based on their own or family's initiative are carried out in the form of mandatory reporting through community health centers, hospitals and/or rehabilitation institutions, while rehabilitation applications are based on requests from investigators in the case of Narcotics Addicts and Victims of Narcotics Abuse caught red-handed with positive urine test results with no barring evidence or certain evidence. Rehabilitation applications based on requests from investigators are submitted to the Integrated Assessment Team.
- c. Circular letter of the Head of the Criminal Investigation Agency Number: SE/01/II/2018 concerning Rehabilitation Guidelines for Narcotics Addicts and Victims of Narcotics Abuse, where considerations for rehabilitation are for narcotics user suspects who are caught with evidence of positive (+) urine test results for using narcotics, while there is no evidence of narcotics on the suspect and suspects who are caught red-handed with evidence of positive (+) urine results for using narcotics and narcotics evidence is found on them under a certain amount.
- d. Regulation of the Attorney General of the Republic of Indonesia Number PER-0029/A/JA/12/2015 concerning Technical Guidelines for Handling Narcotics Addicts and Victims of Narcotics Abuse in Rehabilitation Institutions provides guidance for prosecutors in handling cases of narcotics addicts and victims of narcotics abuse by recommending the provision of rehabilitation based on the results of an integrated assessment with the aim of handling narcotics addicts and victims of narcotics abuse emphasizing recovery rather than just punishment;
- e. Supreme Court Circular Letter Number 4 of 2010 concerning the Placement of Drug Abusers, Victims of Drug Abuse and Addicts in Medical Rehabilitation and Social Rehabilitation Institutions which contains criteria and procedures for making rehabilitation decisions by assessing the threshold of evidence to consider someone as a drug addict/victim of drug abuse who is worthy of rehabilitation;

Referring to Article 1 Number 15 of Law Number 35 of 2009, an abuser is defined as a person who uses narcotics without permission and against the law. In this case, an abuser can be interpreted as a person who uses narcotics illegally and against the law and can be classified as an addict and dealer who uses and carries out illicit trafficking of narcotics. The implementation of rehabilitation for addicts and victims of narcotics abuse is stipulated in

⁷Dikdik M. Arief Mansur and Elisatrisi Gultom, *The Urgency of Protecting Crime Victims Between Norms and Reality*, PT Raja Grafindo Persada, Jakarta, 2008, p. 60

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RECONSTRUCTION OF A REHABILITATION APPROACH FOR VICTIMS OF DRUG ABUSE WITH COMMUNITY-BASED INTERVENTION WITH JUSTICE VALUES

Kevin Krissentanu Winner et al

Articles 4, 54, 55, 56, 103 and 127 as well as Article 128 of Law Number 35 of 2009 concerning Narcotics which are regulated as follows:

- a. Article 4 guarantees the regulation of medical and social rehabilitation efforts for drug abusers and addicts.
- b. Article 54 states that drug addicts and victims of drug abuse are required to undergo medical rehabilitation and social rehabilitation.
- c. Article 55 requires reporting by parents or guardians of underage drug addicts and by drug addicts who are of age, they are required to report themselves or be reported by their families.
- d. Article 56 concerning institutions/agencies carrying out medical rehabilitation for drug addicts
- e. Article 103 concerning the authority of the judge to decide and determine to order to undergo treatment and/or care
- f. Article 127 regulates the obligation to undergo medical rehabilitation and social rehabilitation in cases where the abuser can be proven or proven to be a victim of narcotics abuse.
- g. Article 128 regulates the threat of criminal penalties for addicts, parents or guardians of addicts who deliberately do not report. In this case, parents or guardians of narcotics addicts who are not of age are required to report themselves or be reported by their families to community health centers, hospitals, and/or medical rehabilitation and social rehabilitation institutions designated by the government as Mandatory Reporting Recipient Institutions (IPWL) to receive treatment and/or care through medical rehabilitation and social rehabilitation.

The government specifically regulates the care and treatment of drug addicts and abusers, as outlined in the following regulations:

- a. Supreme Court Circular Letter Number 04 of 2010 concerning the placement of Narcotics Abusers, Victims of Abuse and Addicts in Medical Rehabilitation and Social Rehabilitation Institutions;
- b. Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting of Narcotics Addicts;
- c. Supreme Court Circular Letter Number 3 of 2011 concerning the Placement of Victims of Narcotics Abuse in Medical Rehabilitation and Social Rehabilitation Institutions;
- d. Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 12 of 2019 concerning Facilitation of Prevention and Eradication of Abuse and Illicit Trafficking of Narcotics and Narcotics Precursors;
- e. Circular Letter of the Attorney General Number SE-002/A/JA/02/2013 concerning the Placement of Victims of Narcotics Abuse in Medical Rehabilitation and Social Rehabilitation Institutions;
- f. Regulation of the Attorney General of the Republic of Indonesia Number: Per-029/A/Ja/12/2015 concerning Technical Instructions for Handling Narcotics Addicts and Victims of Narcotics Abuse in Rehabilitation Institutions;
- g. Joint Regulation of the Chief Justice of the Republic of Indonesia No: 01/PB/MA/III/2014, Minister of Law and Human Rights of the Republic of Indonesia Number: 03 of 2014, Minister of Health of the Republic of Indonesia Number 11 of 2014, Minister of Social Affairs of the Republic of Indonesia 03 of 2014, Attorney General of the Republic of Indonesia Number PER005/A/JA/03/2014, Chief of the Republic of Indonesia National Police Number 1 of 2014 and National Narcotics Agency of the Republic of Indonesia Number PERBER/01/III/2014/BNN concerning Handling of Narcotics Addicts and Victims of Narcotics Abuse into Rehabilitation Institutions
- h. Indonesian Attorney General's Guidelines Number 11 of 2021 concerning Handling of Narcotics Crimes and/or Narcotics Precursor Crimes

Several regulations that show the government's support for efforts to overcome narcotics abuse are very strong, then Presidential Instruction Number 2 of 2020 was issued concerning the National Action Plan for the Prevention and Eradication of Abuse and Illicit Trafficking of Narcotics and Narcotics Precursors for 2020-2024 as a basis for Ministries/Institutions and Regional Governments in handling narcotics abusers as a form of synergy in handling narcotics, including including funding, guidance and reporting on the implementation of P4GN facilitation. Regulation of the Minister of Home Affairs (Permendagri) Number 21 of 2013 concerning Facilitation of Prevention of Narcotics Abuse and Regulation of the Minister of Home Affairs (Permendagri) Number 12 of 2019 concerning Facilitation of Prevention and Eradication of Abuse and Illicit Trafficking of Narcotics and Narcotics Precursors, states that what is meant by facilities is in the form of drafting Regional Regulations, increasing community participation, partnerships/collaboration with community organizations, the private sector, universities, volunteers, individuals, and/or institutions and involving interfaith harmony forums (FKUB), community vigilance forums in the regions and in regional intelligence communities for the prevention of narcotics abuse, and preparing work

programs on narcotics abuse prevention activities. Medical rehabilitation and social rehabilitation as regulated in Law Number 35 of 2009 gives authority to the National Narcotics Agency to carry out rehabilitation for drug abusers including coordinating with related agencies with accredited rehabilitation institutions and related institutions. The law also provides further technical regulations regarding technical regulations regarding rehabilitation Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts, this regulation gives addicts and victims of narcotics abuse the right to report themselves to the Mandatory Reporting Receiving Institution (IPWL) to receive treatment and/or care through medical rehabilitation and social rehabilitation. Substantially, Government Regulation Number 25 of 2011 is used as a guideline or reference in the formulation of legal norms regarding Mandatory Reporting for Narcotics Addicts, and the implementation of Medical Rehabilitation and Social Rehabilitation. In practice, addicts, abusers, and victims of drug abuse who have undergone medical rehabilitation are entitled to undergo social rehabilitation and a return to society program in accordance with the provisions of laws and regulations. IPWL is expected to collaborate with government-owned or community-owned social rehabilitation centers, or with Non-Governmental Organizations (NGOs) that provide after-care services. Social rehabilitation with a return to society program is in the rehabilitation process due to the lack of standards in the Law or Government Regulations regarding the provisions for community participation for drug addicts in the transition stage back to society.

The Ministry of Social Affairs is given the responsibility to carry out social rehabilitation and post-rehabilitation referring to the Minister of Social Affairs Regulation No. 3 of 2012 concerning Standards for Social Rehabilitation Institutions for Victims of Drug Abuse, Minister of Social Affairs Regulation No. 8 of 2014 concerning Guidelines for Social Rehabilitation of Narcotics Addicts and Victims of Drug Abuse who are in conflict with the Law in Social Rehabilitation Institutions, and National Standards for Social Rehabilitation for Addicts and Victims of Drug Abuse. The Social Rehabilitation Program includes indirect services and direct services, indirect services of the Social Rehabilitation Program are implemented through:

- a. increasing social campaigns through prevention campaigns, publications, socialization, education, and expansion of Social Rehabilitation information in all sectors of society
- b. technical guidance on competency for Social Rehabilitation Managers and Companions
- c. Policy reflection
- d. supervision, monitoring and evaluation of reporting
- e. technical coordination meeting
- f. Social Advocacy through Social Rehabilitation Assistance (ATENSI)

Social Rehabilitation Assistance is a holistic, comprehensive, and integrated community- or family-based social rehabilitation approach aimed at facilitating the social reintegration of drug addicts and victims of drug abuse into society. ATENSI is family-, community-, and residential-based, utilizing case management, a systematic approach to organizing and providing services to address the protection and/or well-being of drug addicts and/or drug abusers post-rehabilitation. A series of technical regulations regarding medical rehabilitation and social rehabilitation carried out by the National Narcotics Agency, the Ministry of Health and the Ministry of Social Affairs have not yet included the rehabilitation principles in the formulation of *the World Health Organization and the United Nations on Drugs and Crime* which contain provisions that rehabilitation must include community participation and be client-oriented.⁸ This principle is the content of the Responsive Legal Theory put forward by Nonet-Selznick, which states that law should be an open system in current developments based on the priority of purpose (the sovereignty of purpose) the scope of legal objectives includes wide open access to community participation in the context of integrating legal and social interest groups.

Progressive Legal Theory with the concept of "law is for humans, not humans for law" is interpreted contextually in Article 54 of Law Number 35 of 2009 shifting law enforcement resources from prison to the community, the community in this case includes active community participation as the basis for philosophical and sociological justification of Progressive Legal Theory in Narcotics Rehabilitation. Substantive justice and public welfare as the ultimate goal of Progressive Law correlate with the Welfare State Legal Theory regarding rehabilitation for drug addicts and victims of drug abuse. Progressive legal theory provides philosophical and instrumental justification, while the Equality State Theory approach legitimizes the state's role in social and humanitarian affairs. Public participation must be provided as social capital and a community initiative for social reintegration for drug addicts and victims of drug abuse. Meanwhile, the state is obligated to take an active role through intervention to ensure that public participation can take place to guarantee the health and welfare of citizens who are victims of drug abuse. The role of community participation within the legal framework to support recovery and social reintegration

⁸Diah Setia Utami, **Standards of Rehabilitation Services for Drug Addicts and Victims of Drug Abuse**, Deputy for Rehabilitation, National Narcotics Agency, Jakarta, 2016, p. 13

RECONSTRUCTION OF A REHABILITATION APPROACH FOR VICTIMS OF DRUG ABUSE WITH COMMUNITY-BASED INTERVENTION WITH JUSTICE VALUES

Kevin Krissentanu Winner et al

for drug addicts and abusers has been accommodated by the National Narcotics Agency through National Narcotics Agency Regulation Number 6 of 2022 concerning the Implementation of Continuous Rehabilitation, rehabilitation services that previously focused on the detoxification phase, inpatient care in institutions and social reintegration in special social rehabilitation centers have not included comprehensive and continuous follow-up care (*aftercare*). In the development of rehabilitation, post-rehabilitation, and preventive measures, community involvement is mandatory, not solely relying on government-owned rehabilitation institutions. Recovery involves social reintegration into the community through rigorous procedural assessments. National Narcotics Agency Regulation No. 6 of 2022 is fundamentally driven by the need to transform rehabilitation from merely acute care to a sustainable, standardized, and integrated process involving active community participation, with the ultimate goal of achieving complete recovery and preventing relapse. Rehabilitation with a community-based intervention approach is one of the programs established by the government as a form of community participation for the reintegration of drug addicts and abusers after rehabilitation.

Rehabilitation with a community-based intervention approach is a concept contained in the Prevention, Eradication, Abuse and Illicit Trafficking of Narcotics (P4GN) which refers to Government Regulation Number 40 of 2013 concerning the Implementation of Law Number 35 of 2009. The focus of Abuse on the main pillar of P4GN is the handling efforts for addicts and victims of narcotics abuse through rehabilitation with the principles of equality, participation, independence, and sustainability aimed at providing leading services for victims of narcotics abuse in the community, direct interaction between the community and victims of narcotics abuse and easy access for abusers and their families. The National Narcotics Agency (BNN), as the agency authorized to coordinate the IBM program, is required to collaborate with local governments to establish a mechanism for implementing the IBM program. The implementation of Community-Based Intervention (IBM) requires coordination between the BNNP and BNNK with village heads/sub-district heads to socialize the IBM program, coordinate the location of the IBM program, coordinate the implementation of IBM service activities, and establish recovery agents.

Regional Governments are required to actively empower the rehabilitation of victims of narcotics abuse as mandated in Article 63 of Law Number 35 of 2009 concerning Narcotics, which states that the community has the right and responsibility and in the effort to eradicate narcotics, this provision is the basis for IBM referrals that can be facilitated by the Regional Government. Regulations on Regional Governments regarding rehabilitation for victims of narcotics abuse are philosophically stated in Law Number 23 of 2014 concerning Regional Government, Regional Governments are required to protect the community by providing basic services in the form of health and social services. Health and Social as referred to include rehabilitation with the content of medical rehabilitation and social rehabilitation, which has implications for the obligation of regional governments to allocate budgets and organize rehabilitation facilities including IBM.

Community-based narcotics rehabilitation at the regional level has been regulated in the Minister of Home Affairs Regulation Number 12 of 2019 concerning the Facilitation of Prevention and Eradication of Abuse and Illicit Trafficking of Narcotics and Narcotics Precursors. One of the considerations and reasons for the issuance of Minister of Home Affairs Regulation No. 12 of 2019, in essence, to support the prevention and eradication program of narcotics abuse and illicit trafficking, it is necessary to increase the role of local governments and communities. On the other hand, the issuance of Minister of Home Affairs Regulation No. 12 of 2019, revokes and declares invalid the Minister of Home Affairs Regulation No. 21 of 2013 concerning the Facilitation of Prevention of Narcotics Abuse, because it is considered no longer in accordance with the development of government dynamics. In other words, Minister of Home Affairs Regulation No. 12 of 2019, issued in order to accommodate various problems related to the implementation of the Facilitation of Prevention and Eradication of Narcotics Abuse and Illicit Trafficking of Narcotics and Narcotics Precursors to be more effective, efficient, optimal, and orderly administration.

The implications of the issuance of Permendagri No. 12 of 2019, and as a manifestation of the active role of Regional Governments in supporting the program of prevention and eradication of narcotics abuse and illicit traffic, then in accordance with the mandate/order of the provisions of Article 3 letter a Permendagri No. 12 of 2019, Regional Governments, both Provincial Governments and Regency/City Governments, are given attributive authority to draft Regional Regulations concerning the Prevention and Eradication of Narcotics Abuse and Illicit Trafficking and Narcotics Precursors. Regulations regarding community-based interventions in the rehabilitation phase for drug addicts still require synchronization of cooperation between the National Narcotics Agency and Regional Governments. Differences in regulations between sectoral areas that handle the handling of drug abuse victims with a community-based intervention approach must strive to formulate Regional Regulations on the Prevention and Eradication of Narcotics Abuse and Illicit Trafficking (P4GN). Regional Regulations as legitimacy of budget allocations from the APBN and APBD regarding financing Community-Based Interventions by integrating with Regional Apparatus Organizations (OPD) such as the Social Service, Health Service and the Kesbangpol Agency, in addition to regulating appropriate incentive mechanisms for Recovery Agents, it is necessary to regulate

appropriate incentive mechanisms. Community-Based Intervention as a rehabilitation step for victims of small-scale drug abuse needs to be supported by the Establishment of a P4GN Coordination Team in the Region as a form of Cooperation across Regional Government Organizations, Tiered Training and Certification for Recovery Agents and also the role of Optimizing Community Health Centers as referrals for Mandatory Reporting Recipient Institutions (IPWL) to provide screening and medical referrals. The absence of a basis in the obligations of legislation in the formation of Regional Regulations concerning the Facilitation of Prevention and Eradication of Abuse and Illicit Trafficking of Narcotics and Narcotics Precursors (P4GN) as a legal basis for the implementation of community-based interventions can cause inconsistencies in the implementation of rehabilitation for victims of drug abuse in addition to budget allocation constraints, limited human resources and limited infrastructure for the active role of the community involved in the IBM program. In addition, the implementation of IBM without involving Regional Apparatus Organizations causes the gradual handling program for victims of drug abuse to be suboptimal. The non-uniformity based on the non-uniformity in the Facilitation of Prevention and Eradication of Narcotics and Narcotics Precursor Abuse and Illicit Trafficking (P4GN) program can cause suboptimal Community-Based Interventions resulting in the lack of connection between vocational training and the local job market and the quality of post-rehabilitation assistance that is not sustainable due to the absence of referral regulations at the regional level regarding the implementation of Community-Based Interventions.

2. Efforts to reconstruct the rehabilitation approach for victims of drug abuse with community-based interventions that value justice.

The Indonesian government has classified drug addicts, drug abuse victims, and drug dealers based on Law No. 35 of 2009. Indonesia still faces obstacles in dealing with drug addicts and drug abuse victims, where in this article, drug abusers are still punished based on the type of drug consumed. Drug rehabilitation in Indonesia needs to be administratively regulated regarding the classification of drug possession and drug abuse victims to ensure the appropriateness of rehabilitation services so that drug abuse victims can be re-accepted into society. This is different from regulations in Malaysia, Australia, and Portugal which have provided different sanctions for perpetrators, addicts, dealers, and drug dealers. In addition, there is a clear boundary regarding drug addicts and victims of drug abuse who are not classified as dealers who can receive rehabilitation services. Compared to Indonesia, The paradigm of drug abuse victims in several developed countries positions drug abuse victims as sick individuals who require treatment to recover in society. This paradigm creates a policy perspective that no longer treats drug abuse victims as criminals but rather as legal subjects who must be rehabilitated. Rehabilitation for drug abusers is an effective solution to address issues related to drug users who are not actively involved in drug trafficking.

Article 103 of the 2009 Narcotics Law states the same thing, namely that judges in examining cases of narcotics addicts can (i) decide to order the person concerned to undergo treatment and/or rehabilitation if proven guilty of committing a narcotics crime and (ii) determine to order the person concerned to undergo treatment and/or rehabilitation if proven not guilty of committing a crime. The period of undergoing treatment and/or rehabilitation is once again emphasized as an equivalent part of the law and is calculated as the period of serving a sentence. However, in its implementation, the punitive practice in the Narcotics Law is still reflected in Article 112 of the Narcotics Law which contains the elements of "storing, possessing, and controlling" which makes the qualifications of narcotics users unclear because they can be positioned the same as dealers and even drug dealers.

Rehabilitation as a preventive and recovery measure in the process of handling victims of drug abuse can be implemented through the Mandatory Reporting Receiving Institution or the judicial process. The Mandatory Reporting Institution provides space for victims of drug abuse to actively obtain medical and social rehabilitation by reporting to the IPWL while rehabilitation steps in court decisions through a series of judicial processes at the stage of victims of drug abuse who go through the process of investigation, prosecution and trial receive rehabilitation from each stage by law enforcement with the internal regulations of law enforcement institutions. There is no uniform mechanism between the National Narcotics Agency, the Ministry of Health, and law enforcement officials in implementing the drug rehabilitation process. In Law Number 17 of 2023 concerning health, health care for drug addicts is not specifically regulated as a form of health service, health services are divided into curative and rehabilitative health services. Curative health services are an activity and/or series of treatment activities aimed at curing diseases, controlling disabilities so that the quality of patients can be maintained as optimally as possible, while rehabilitative health services are a series of activities to return former sufferers to society so they can function again as useful members of society for themselves and society to the maximum extent possible according to their abilities. Handling drug-related health problems is a small part of the health regulations under Law Number 17 of 2023 concerning Health. Drug-related health services do not have specific provisions and are treated the same as other health services. Contrary to the Health Law, the Narcotics Law provides detailed regulations as an aspect of rehabilitation and must be coordinated with health institutions. While narcotics management is the specific domain

RECONSTRUCTION OF A REHABILITATION APPROACH FOR VICTIMS OF DRUG ABUSE WITH COMMUNITY-BASED INTERVENTION WITH JUSTICE VALUES

Kevin Krissentanu Winner et al

of the National Narcotics Agency (BNN), its handling does not always proceed through legal channels but requires health rehabilitation efforts. Therefore, coordination between law enforcement agencies and health institutions must be strengthened to increase the effectiveness of drug eradication.

The regulations in Law Number 35 of 2009 still have problems in terms of:

- 1) there is no enforcement of criminal law and rehabilitation for addicts, abusers and dealers;
- 2) there is no standardization regarding the authority of institutions related to the involvement of community groups, and the role of local governments in providing medical rehabilitation for drug addicts or abusers carried out in health service facilities and through traditional health services;
- 3) expanding the role of society not only to prevention and eradication, but also to include social assistance and rehabilitation;
- 4) there is no regulation regarding community organizations being given a budget according to the government's capabilities, both central and regional, in eradicating narcotics crimes;
- 5) There is no role, duty and authority of the regional government in preventing and eradicating the abuse of illegal narcotics through medical rehabilitation and social rehabilitation in the community.

These problems are technically addressed by the National Narcotics Agency through the national program for the Prevention and Eradication of Narcotics Abuse and Illicit Trafficking (P4GN) contained in Presidential Regulation (Perpres) Number 23 of 2010 concerning the National Narcotics Agency with amendments to Presidential Regulation (Perpres) Number 47 of 2019 concerning Amendments to Presidential Regulation (Perpres) Number 23 of 2010 concerning the National Narcotics Agency. In 2020, President Joko Widodo declared that Indonesia was in a state of drug emergency and then issued Presidential Instruction (Inpres) Number 2 of 2020 concerning the National Action Plan for the Prevention and Eradication of Drug Abuse and Illicit Trafficking and Drug Precursors for 2020-2024. In Inpres Number 2 of 2020, namely the Implementation of the Drug-Free Village Program through the Facilitation of P4GN Activities, one of which is the Shining Village, is a regional unit at the Kelurahan/Village level that has certain criteria where there is a massive implementation of the Prevention and Eradication of Drug Abuse and Illicit Trafficking (P4GN) program. The Presidential Instruction was followed by the National Narcotics Agency's progressive move to issue National Narcotics Agency Regulation Number 6 of 2022 concerning the Implementation of Sustainable Rehabilitation, providing space for non-institutional (community) agencies to become rehabilitation providers. The classification of drug abuse victims who have been assessed can be categorized as light drug users who can be provided with outpatient rehabilitation services. Outpatient rehabilitation can be organized by the community for drug abusers designed from the community, for the community, and by the community through Recovery Agents by utilizing community facilities and potential in accordance with local wisdom.

Rehabilitation using a community-based intervention approach is an effort to address the challenges faced by communities in both urban and rural areas regarding drug abuse by providing early intervention facilities for drug abuse. From a legal and political perspective, this concept in the narcotics sector involves community participation to minimize errors in the treatment of drug abusers and addicts who are victims of drug abuse. The absence of a basis in the obligations of legislation in the formation of Regional Regulations concerning the Facilitation of Prevention and Eradication of Abuse and Illicit Trafficking of Narcotics and Narcotics Precursors (P4GN) as a legal basis for the implementation of community-based interventions can cause inconsistencies in the implementation of rehabilitation for victims of drug abuse in addition to budget allocation constraints, limited human resources and limited infrastructure for the active role of the community involved in the IBM program. In addition, the implementation of IBM without involving Regional Apparatus Organizations causes the gradual handling program for victims of drug abuse to be suboptimal.

Community-based intervention approaches for victims of drug abuse have not been fully conceptually incorporated into the Narcotics Law to address the issues of drug abuse. Existing provisions have instead created overlapping authority and new problems in law enforcement, such as the authority to determine rehabilitation and sentencing, as well as the unequal distribution of organizational resources between the Police and the National Narcotics Agency (BNN). A community-based intervention approach for drug abuse victims needs to be implemented by examining how drug abuse victims can be classified for community-based intervention. Meeting legal needs within society is one of the elements of a law, reflecting the concept of responsive and aspirational legal formation. Public involvement in every policy determination, legal decision, and power can be an effective force when a regulation or policy benefits the community. Living and good law comes from the people or is relevant and in accordance with the will of the people ⁹. Drug abusers and/or addicts are *self-victimizing victims* or *mutual victims*, meaning victims of their own actions or perpetrators as well as victims, so they should be treated and/or cared for

⁹Hedar Laudjeng and Rikardo Simarmata, *The Non-Positivistic School of Law Approach in the Field of Natural Resources Law in Discourse*, 6th Edition, Year II, HuMa, Jakarta, 2000, p. 119

through rehabilitation. There has been no firmness from law enforcement officials to create legal certainty that drug abusers and/or drug addicts are different from drug dealers, sellers and dealers, therefore the assessment of the classification of drug abuse victims is often not on target to be able to fully implement community-based interventions. The rehabilitation approach for drug abuse victims with Community-Based Intervention requires legal reconstruction in its implementation by adding new norms to the Narcotics Law regarding the role of the community in managing medical and social rehabilitation with guidance and supervision carried out by authorized agencies. Assessment of drug abuse victims also requires synchronization between relevant Institutions/Ministries and Law Enforcement Officials to classify the placement of drug abuse victims not as perpetrators of criminal acts but as parties in need of rehabilitation. Legal reconstruction regarding Cooperation between the Central Government and Regional Governments is necessary. Minister of Home Affairs Regulation Number 12 of 2019 concerning Facilitation of Drug Abuse Prevention provides space for officials at the provincial, district, and village/sub-district levels to coordinate facilitation of prevention and eradication of drug abuse and illicit trafficking (P4GN). The Minister of Home Affairs Regulation does not yet have synchronization regarding the division of authority between institutions at the regional level, the guidance and supervision mechanisms by the BNN or regional governments, and funding for P4GN activities.

The rehabilitation approach for drug abuse victims through community-based interventions remains a component of the National Narcotics Agency's (BNN) P4GN program. The legal basis for its implementation needs to be reconstructed to provide a binding basis for its enforcement, providing justice for drug abuse victims and empowering the community to play a role in their recovery. From the discussion, although the implementation of Narcotics rehabilitation with a community-based intervention approach already has a legal umbrella in the National Narcotics Agency Regulation Number 6 of 2022 concerning the Implementation of Sustainable Rehabilitation, it cannot be denied that it still has its own problems that arise from the regulation, such as partial arrangements, so that it is not effective and comprehensive enough to cover rehabilitation actions with a community-based intervention approach as an obligation for Law Enforcement Officers and Regional Governments. The urgency of reconstruction based on the principle of justice refers to the goal of rehabilitation as a treatment or care for drug addicts, enabling them to recover from their addiction. The principle of just rehabilitation emphasizes accessibility at every stage of the legal process, affordable funding through the state and regional budgets, and community participation in the ongoing rehabilitation process. Community-Based Intervention as a rehabilitation approach model that accommodates the role of the community in each region needs to be reconstructed in the regulatory stage in the law, its implementation that can be accessed in every stage of the judicial process, giving responsibility to local governments to provide standardized service facilities, and the role of the community to be directly involved in treatment for victims of drug abuse.

D. CONCLUSION

Regulations regarding the rehabilitation of drug abuse victims with a community-based intervention approach still require synchronization of cooperation between the National Narcotics Agency and Regional Governments. Differences in regulations between sectoral areas that handle the handling of drug abuse victims with a community-based intervention approach require Regional Regulations as legitimacy for the allocation of budgets from the APBN and APBD regarding the financing of Community-Based Interventions by integrating with Regional Apparatus Organizations (OPD) such as the Social Service, Health Service and the Kesbangpol Agency. The absence of a basis in the obligations of legislation in the formation of Regional Regulations regarding the Facilitation of Prevention and Eradication of Abuse and Illicit Trafficking of Narcotics and Narcotics Precursors (P4GN) as a legal basis for the implementation of community-based interventions can cause inconsistencies in the implementation of rehabilitation for drug abuse victims in addition to budget allocation constraints, limited human resources and limited infrastructure for the active role of the community involved in the IBM program. In addition, the implementation of IBM without involving Regional Apparatus Organizations causes the gradual handling program for drug abuse victims to be suboptimal. The urgency of carrying out reconstruction based on the principle of justice refers to the goal of rehabilitation as a treatment or care for drug addicts, so that addicts can recover from their addiction to narcotics. The principle of just rehabilitation takes into account accessibility at every stage of the legal process, affordable funding through the APBN and APBD as well as community participation in the continuity of the rehabilitation process. Community-Based Intervention as a model of rehabilitation approach that accommodates the role of the community in each region needs to be reconstructed in the regulatory stage in the law, its implementation that can be accessed at every stage of the judicial process, giving local governments responsibility to provide standardized service facilities, and the role of the community to be directly involved in treatment for victims of drug abuse.

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