

## Legal Analysis of the Provision of Rehabilitation to Narcotics Abuse in Tanjung Pura Class IIB Detention Center

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**Abstrak** The Tanjung Pura Class IIB Detention Center is one of the UPTs under the Ministry of Law and Human Rights which carries out Medical Rehabilitation and Social Rehabilitation. Rehabilitation is an effort to restore and restore narcotics abuse/addiction to health in the sense of physical, psychological, social and spiritual/religious (faith) health. With this healthy condition, it is hoped that they will be able to function normally again in their daily lives. The aim of this research is to find out the legal basis for providing rehabilitation sanctions in legislation, implementing rehabilitation. In accordance with statutory regulations and the effectiveness of rehabilitation implementation at the class IIB Tanjung Pura detention center. This research is included in analytical descriptive research with a type of empirical juridical research using qualitative analysis methods. Based on the research results, it is known that the legal basis and regulations related to rehabilitation of convicts and drug abusers are Law Number 35 of 2009 concerning Narcotics, Law Number 12 of 1995 concerning Corrections, Regulation of the Minister of Health of the Republic of Indonesia Number 46 of 2012 concerning Procedures for Implementing Rehabilitation Medical for addicts, abusers and victims of narcotics abuse. SEMA Number 4 of 2010, concerning the placement of drug abusers, victims of abuse, and narcotics addicts into medical and social rehabilitation institutions and SEMA Number 3 of 2011 concerning the placement of victims of narcotics abuse in medical and social rehabilitation institutions, implementation of rehabilitation in class IIB prisons in Tanjung Pura refers to statutory regulations related to the rehabilitation of perpetrators of criminal acts of narcotics abuse, including medical rehabilitation and social rehabilitation, until the inmates have completed their criminal term. Implementation. Rehabilitation at the Tanjung Pura class IIB detention center is quite effective in healing, educating and sensitizing prisoners, where prisoners are cured of addiction with medical rehabilitation and their personality and psychology are restored with social rehabilitation. So that after completing their prison term, inmates can return to living a normal life in society.

**Keywords:** Rehabilitation, Prisoners, Detention Center

### 1. INTRODUCTION

Drug abuse is a condition that can be conceptualised as a mental disorder, namely mental and behavioural disorders due to drug abuse. As a result, drug abusers are no longer able to function reasonably in society and show maladaptive behaviour. Such conditions can be seen in impairment in social, work or school functions, the inability to control themselves and stop drug use, and which can cause withdrawal symptoms if drug use is stopped. The problem of drug abuse/dependence would not exist if there were no drugs themselves. Narcotics are not only addictive, but obtaining narcotics is very easy at this time.

The legal discourse on whether it is appropriate for drug addicts and abusers to be sentenced to imprisonment has always been a topic of discussion when drug offences occur, especially if committed by public figures. Some people argue that drug addicts and abusers should not be sentenced to imprisonment, but rehabilitated to eliminate addiction and restore

the impact of drugs both medically, psychologically and socially. On the other hand, in the context of law enforcement, law enforcement officials must be careful in determining the legal status of a person involved in a drug offence, because often the perpetrators of drug offences who are drug dealers and dealers confess and or in order to make alibis as drug addicts and abusers with the aim of light punishment or rehabilitation.

The obstacles faced in tackling drug abuse in Indonesia, apart from the weak rule of law, include the lack of agreement on the basic concept of drug abuse mechanisms. In addition, there are still many opinions about drug abuse/addiction itself, law enforcement officials see drug abuse/addiction as a criminal offender; social experts see drug abuse/addiction as a victim, while medical/health experts see drug abuse/addiction as a patient.

Every drug addict who has been decided by a judge to undergo treatment and/or care through rehabilitation if the drug addict is proven guilty of committing a narcotics crime or not proven guilty of committing a narcotics crime. Rehabilitation is an effort to restore and abuse / dependence on narcotics back to health in the sense of physical, psychological, social, and spiritual / religious health (faith). With this healthy condition, it is hoped that they will be able to function reasonably in their daily lives at home, at school/campus, at work and in their social environment.

The length of the rehabilitation programme depends on the methods and programmes of the institution concerned; usually the length of the rehabilitation programme is 3-6 months. A good rehabilitation centre must pay attention to adequate facilities and infrastructure, professional staff, good management, programmes that are in accordance with the needs, strict rules and strict security so as not to allow drug trafficking in the rehabilitation centre.

Every drug addict is obliged to undergo medical rehabilitation and social rehabilitation, this obligation is one form of government effort to encourage drug addicts to recover from their dependence. So that with the threat of punishment for addicts who do not report will certainly encourage addicts to report themselves.

In the rehabilitation process, victims of drug abuse are not objects but subjects. He is a subject because the success or failure of the rehabilitation process is determined by him alone. The presence of other roles is more to support and guide him in passing the stages of rehabilitation.

In carrying out this function, detention centres and prisons apply different patterns of guidance to narcotics prisoners, namely for narcotics offenders categorised as high-risk dealers and traffickers, the pattern of guidance focuses on a security approach so that in

general they are placed in prisons with high security levels (Maximun Security Prison), such as Gunung Sindur Prison and Nusakambangan Prison so that they cannot control illicit drug trafficking from inside the prison. Whereas for narcotics prisoners who are categorised as addicts, abusers and victims of narcotics abuse, the pattern of guidance provided focuses on recovery and is placed in prisons with medium and minimum security levels.

Although there are similarities in the objectives of drug rehabilitation between the Narcotics Law and the Corrections Law, however, there are differences in perspective in the implementation of drug rehabilitation for prisoners. For example, differences in the process of determining rehabilitation. Currently, the implementation of rehabilitation is based on a judge's decision, as mentioned in Article 103 and Article 127, whereas in the correctional system the determination of prisoners participating in rehabilitation programmes is not only based on a judge's decision, but also based on the results of screening and assessment carried out by the correctional centre.

The provisions and sanctions listed in Law Number 35 of 2009 indicate that this law on narcotics is a law that is classified as Criminal Law. For this reason, the principle and purpose of punishment itself. This means that the sanctions listed in it must also be in accordance with the objectives of punishment that apply in Indonesia.

Based on the description above, the author is interested in examining the issue of granting parole in a thesis entitled: 'Legal Analysis of Providing Rehabilitation to Narcotics Abusers at the Tanjung Pura Class IIB Detention Centre'

#### A. Problem Formulation

The problem formulations in this study are as follows:

How is the effectiveness of providing rehabilitation at the Class IIB Tanjung Pura Detention Centre?

#### B. Literature Review

A criminal offence is a formulation of acts that are prohibited to be committed (in legislation) accompanied by criminal penalties for those who violate the prohibition. The act (feit) here is the main element of a criminal offence that is formulated.

Almost all branches of law have functions regarding their existence, as well as criminal law which has 2 (two) functions, namely:

a). The general function is to regulate and organise community life, in order to create and maintain public order<sup>15</sup>. There are also those who say that the general function is to regulate social life or organise order in society. The law only pays attention to actions that are 'socially relevant', meaning that the law only regulates everything that has to do with society.

Criminal law basically does not regulate the inner attitude of a person who is concerned with moral order.

b. Special functions, namely:

- 1) protecting legal interests from acts that attack or rape these legal interests,
- 2) provide a basis for legitimacy for the state in order to carry out the function of protecting various legal interests,
- 3) regulate and limit the power of the state in the context of the state carrying out the function of protecting legal interests

Narcotics crime is an unlawful act and is an organised crime. Narcotics crime is a transnational crime which is a form of cross-border crime. This causes the development of narcotics crimes that occur in countries around the world to be eradicated completely.

The judge in making a decision must have a policy in considering the decision, so that the decision really does not come out of the principle of justice. In carrying out his duties, the judge is free to determine the type of punishment and the level of punishment, he can also move on the minimum and maximum limits of criminal sanctions in each criminal law. This means that the judge has absolute power in sentencing. Regarding the verdict against the defendant who committed a criminal offence of narcotics, a judge must fully understand the meaning of the punishment imposed and the judge must understand what he wants to achieve by imposing certain criminal sanctions on the defendant who abuses narcotics. Therefore, every decision of the judge cannot be separated from the composition of criminal policy which will certainly affect the next stage.

Narcotics offences are regulated in Chapter XV Article 111 up to Article 148 of Law Number 35 Year 2009 on Narcotics which is a special provision, although it is not explicitly stated in the narcotics law that the criminal offences regulated therein are crimes, but it is undisputed that all criminal offences in the law are crimes.

## **2. RESEARCH METHODS**

The nature of the research used by the author in this legal writing is descriptive analytical because this research describes in detail the social phenomena that are the subject matter. A descriptive research is intended to provide data as accurately as possible. This thesis research uses empirical legal research. Empirical legal research is research that traces the reality of law in society. Empirical legal research in this study is intended to conduct research

on the application of rehabilitation sanctions in accordance with legislation.

In collecting this data, the collection methods used are field studies and library research. Field study, which is a way of obtaining data by going directly to the field which is the object of research, namely at the Keleas IIB Tanjung Pura Detention Centre. This field study was conducted to obtain primary data, where the data was obtained by interviewing the relevant parties. While literature research is to conduct research on various reading sources, namely books, scholarly opinions, articles, the internet and mass media related to the above problem.

Searching and finding patterns, based on data sourced from legal materials based on concepts, theories, laws and regulations, doctrines, legal principles, expert opinions and the views of researchers themselves.

### **3. DISCUSSION**

Law enforcement will always involve humans in it and thus will involve human behaviour as well. The law cannot be upheld by itself, meaning that it will not be able to realise the promises and desires contained in the legal regulations. The law will not be able to stand on its own without the existence of law enforcement officers as this shows the challenges faced by law enforcement officers in the context of law enforcement are not impossible. Law enforcers are not only required to be professional and smart in applying legal norms appropriately, but also have to deal with a person and even a group of community members suspected of committing a crime. Lawrance M. Friedman as quoted by Muhammad Fachreza Parape argues that the effectiveness and success or failure of law enforcement depends on three elements of the legal system, namely

#### **1) Legal Structure**

The legal structure relates to institutions or law enforcers including the performance of law implementers, including in this case are correctional officers whose large number of prisoners participating in rehabilitation results in a shortage of officers in charge of security and supervision as well as coaching to meet the needs of rehabilitation work according to standards that can affect performance. In fact, the prison or detention centre layout does not meet these standards due to overcrowded residents so that residents can still interact with general inmates, which can affect the success of rehabilitation for participants.

## 2) Legal Substance

It is necessary to strengthen the legislation regarding the function of detention centres as supporting prisons as medical rehabilitation services so that all prisoners can be served in accordance with what they should get to improve themselves. Strengthening the ability of detention centres or correctional institutions by BNN needs to be improved both in quality and quantity, so that the need for cooperation / MoU for the implementation of rehabilitation at the central level between the Ministry of Law and Human Rights and BNN, so that BNNP and BNNK can provide full support for the implementation of rehabilitation in UPT Pemasarakatan.

## 3) Legal Culture

Legal culture is the attitudes and values associated with behaviour. The existence of different treatments raises its own social jealousy among prisoners undergoing rehabilitation so that the implementation of the provision of prisoners' rights is hampered by the existence of disagreements between officers and residents and eliminates the correctional principles of equality of treatment and services.

There are several inhibiting factors and obstacles found during the drug rehabilitation process at the Class IIA Langkat Narcotics Correctional Institution. The factors include:

- 1) Severe condition of the addict. The implementation of the rehabilitation programme will be hampered if drug addicts have severe illnesses, both diseases caused by consuming drugs and other diseases such as heart disease, diabetes and others. The physical and spiritual state of drug addicts greatly affects the process of daily activities in participating in the rehabilitation programme.
- 2) Lack of support from family. During the rehabilitation process, family attention and affection are needed so that the prisoners feel motivated to quickly realise what they have done so far. Lack of family or parental attention is one of the caregivers' obstacles in raising awareness. The lack of support can be seen from the few families who visit.
- 3) Lack of budget for operational costs, facilities and infrastructure  
The lack of an operational cost budget is an obstacle that is often encountered, namely the prison feels difficult to carry out rehabilitation because operational costs

are very minimal so that it hampers the work of the prison. Likewise, the lack of facilities and infrastructure can hamper the work of the prison.

- 4) Lack of personnel. The lack of personnel is an obstacle to the work of the Correctional Institution 44 Interview with the Section Head of Inmate Development of Class IIA Langkat Narcotics Correctional Facility Mr Portomuan SH, Date 10 January 2023 86 because of the inadequate number of personnel in carrying out the rehabilitation process. As it is known that adequate personnel only number 111 people, with details of the administrative section of 15 people, the coaching section of 26 people, the security section of 70 people while the number of prisoners is 2183 people.

Observations carried out in order to collect data that will be used to assess whether the state of the detention centre or correctional institution has value and find a definition that the application of criminal sanctions does not aim to make human dignity harassed, and pay close attention to the actions of the inmate against the punishment determined to him whether the punishment imposed on the inmate is sufficient to make him change into a better person. The supervision process is basically carried out by administration and management using various techniques, the supervision technique on Rehabilitation in class IIB Tanjung pura detention centre consists of:

#### 1) Preventive Supervision

Preventive supervision is supervision that is intended before the occurrence of fraud, error or deviation. So preventive action is held so that mistakes do not occur in the future. Preventive supervision carried out in the Tanjung pura class IIB detention centre is to check the entrance, carry out guard duties, carry out escort duties, carry out searches, carry out inspection activities, carry out control activities, carry out intelligence activities, carry out equipment control, carry out communication supervision, carry out environmental control, locking in the context of security. Based on the overall research results related to preventive supervision, it can be concluded that the detention centre and the ranks that function to carry out security or more commonly called the security unit have carried out their duties and functions properly but have not been fully implemented effectively. Due to the gaps and negligence committed even though the placement of security officers has been fully implemented.

## 2) Direct Supervision

Direct supervision is supervision carried out by the leader when the activity is being carried out. Direct supervision carried out in the class IIB tanjungpura detention centre is taking action against fights, taking action against attacks on officers, taking action against escapees, taking action against suicide attempts and / or suicide, taking action against disease outbreaks and others. n. The action against disease outbreaks is still not fully effective because the available medicine facilities are still lacking. The prosecution of disease outbreaks is still not fully effective because the available medicine facilities are still lacking. As well as the need for more maximum supervision and security of items or objects that can be used by prisoners to commit suicide attempts.

## 3) Repressive Supervision

Repressive supervision is intended for supervision after the plan has been carried out, in other words, measuring the results achieved with a standard measuring tool that has been determined in advance.<sup>4</sup> Direct supervision carried out in the Tanjung Pura class IIB detention centre is Reconciliation, rehabilitation, and reconstruction. The results of the research obtained can be concluded that the Tanjung Pura class IIB detention centre has carried out its role in terms of repressive supervision of prisoners such as conducting reconciliation activities where reconciliation is an activity or act of recovery by means of peaceful negotiations between Correctional officers and prisoners or prisoners.

## **Effectiveness of Rehabilitation Implementation at the Tanjung pura class IIB detention centre**

The effectiveness of an activity programme in a public institution cannot be separated from how the activity is structured in a work programme so that it can help the organisation to achieve its goals. With a work programme, each member or team that does the work can work more effectively and structured. As for the criteria for measuring the effectiveness of an organisation, there are three approaches that can be used, namely:



- a. The goals approach, this approach is used to measure the extent to which an institution succeeds in realising the goals it wants to achieve. In this approach, the goals approach uses effectiveness measurements that begin by identifying organisational goals and measuring the level of organisational success in achieving these goals.
- b. Resource approach, this approach measures effectiveness based on the success of an institution in obtaining the various sources it needs which also maintains the conditions and systems, this is done in order to run effectively. This approach is based on the theory of the openness of an institution's system to its environment, because an institution has an equal relationship with its environment, where from the environment can be obtained sources which are input to the institution and the output produced in the environment.
- c. Process approach, this approach is used as the efficiency of an internal institution in an effective institution, the internal process runs smoothly where the activities of the existing parts can run in a coordinated manner. According to Zulkarnain, the effectiveness of drug rehabilitation for drug users is determined by 5 factors, namely:
  - a. The sufferer has a strong will and the patient's own cooperation
  - b. Professionalism, competence and commitment of the implementers
  - c. A good inter-institutional referral system
  - d. Adequate infrastructure, facilities and amenities
  - e. Attention and involvement of parents or family and peers

NIDA (National Institute on Drugs Abuse) in its publication mentions several principles of effective drug rehabilitation, namely:

1. Addiction is a complex but treatable disease that affects brain function and behaviour.  
affects brain function and behaviour
2. There is no single treatment that works for everyone. Treatment  
varies depending on the type
3. Treatment must be available
4. Effective treatment addresses a wide range of individual needs, not just  
drug abuse
5. Remaining in treatment for an adequate period of time is critical 5.

#### **4. CONCLUSION**

Based on the explanation that has been described above, it can be drawn conclusion as follows:

The legal basis and regulations related to rehabilitation of drug abuse prisoners are Law Number 35 of 2000 concerning Narcotics, Law Number 12 of 1995 concerning Corrections, Regulation of the Minister of Health of the Republic of Indonesia Number 46 of 2012 concerning Procedures for the Implementation of Medical Rehabilitation for Addicts.

About Procedures for Implementing Medical Rehabilitation for Addicts. Abusers, and Victims of Narcotics Abuse. SEMA Number 4 of 2010, concerning the placement of abusers, victims of abusers, addicts of narcotics into medical and social rehabilitation institutions and SEMA Number 3 of 2011 concerning the placement of victims of narcotics abuse in medical and social rehabilitation institutions The implementation of rehabilitation at the Class IIB Tanjung Pura Detention Centre refers to the laws and regulations related to rehabilitation of offenders who abuse narcotics.

to perpetrators of narcotics abuse criminal offences, including medical rehabilitation and social rehabilitation. medical rehabilitation and social rehabilitation, until the prisoner completes his/her sentence. period of punishment. The implementation of rehabilitation at the Tanjung pura class IIB detention centre is quite effective in healing, educating and awakening prisoners, where prisoners are cured of dependence with medical rehabilitation and restored their personality and psychology with social rehabilitation. So that after completing the detention period the prisoners can return to normal life in the community.

#### **SUGGESTIONS**

Based on the description and conclusions above, the following conclusions can be drawn: The government should increase the number of human resources and improve the quality of human resources in carrying out Medical and Social rehabilitation programmes at the Tanjung pura class IIB detention house considering the increasing number of prisoners. The government should increase the financing budget and increase facilities and infrastructure in the implementation of the Medical and Social rehabilitation programme at the Tanjung pura class IIB detention house. The detention centre class IIB Tanjung Pura should increase cooperation with various institutions / agencies to improve the quality of coaching and skills of prisoners.

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