

JURIDICAL STUDY OF THE CRIMINAL ACT OF CLASS I MISUSE OF NARCOTICS FOR YOURSELF BASED ON LAW NUMBER 35 OF 2009 CONCERNING NARCOTICS

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Abstract

Abusers are people who use drugs without rights or against the law. Therefore, it is very interesting and important to study further about how the legal regulation for the criminal act of abuse of class I narcotics based on Law No. 35 of 2009? and what are the procedures and criteria for applying the crime of abuse of class I narcotics to oneself? To answer these problems, normative juridical legal research methods are used with statutory and conceptual approach methods. Data obtained from primary, secondary, and tertiary legal material sources were collected which were then analyzed by qualitative data analysis techniques. From the results of the study, it was found that the regulation of the criminal act of misuse of class I (one) narcotics for oneself in Law No. 35 of 2009 adheres to a double track system in the formulation of sanctions for the criminal act of abuse of class I (one) narcotics for oneself, namely in the form of criminal sanctions and action sanctions. Procedures and criteria for the application of criminal acts of class I (one) drug abusers for themselves in the form of actions as mentioned in Article 4 and Article 103 of Law No. 35 of 2009 can carry out medical rehabilitation measures for class I (one) drug abusers for themselves both who come voluntarily, is undergoing an investigation, prosecution, or trial process or who has obtained a court determination/decision based on Minister of Health Regulation No. 4 of 2020 concerning the Implementation of Mandatory Report Recipient Institutions.

Keywords: Criminal acts, abuse of narcotics, narcotics.

Abstrak

Blame To use is the person who uses it narcotics without right or oppose law . Therefore That very interesting and important For study more carry on about How arrangement law to follow criminal abuse narcotics class I based on Law no. 35 of 2009? and how procedures and criteria application to follow criminal abuse narcotics group I for self Alone ? For answer problem mentioned , is used method study law juridical normative with method approach regulation statutory and conceptual . Data obtained from source material primary, secondary and tertiary law collected later analyzed with technique qualitative data analysis . From the results study obtained that arrangement to follow criminal abuse narcotics group I (one) for self itself in Law no . 35 of 2009 adheres to a double track system in formulation penalty to follow criminal abuse narcotics group I (one) for self himself , that is form penalty criminal and sanctions action . Procedures and criteria application follow criminal abuser narcotics group I (one) for self Alone in form action as mentioned in Article 4 and Article 103 of Law no. 35 of 2009 can carry out action rehabilitation medical for abuser narcotics group I (one) for self Alone well that's coming in a way voluntary , moderate undergo the process of investigation , prosecution , or the judge or those who have get decision / decision court based on Minister of Health Regulation No. 4 of 2020 concerning Maintenance Institution Recipients Must Report.

Keywords : Action Crime , Abuse Narcotics , Narcotics .

INTRODUCTION

Indonesia is a rule of law country loaded in The 1945 Constitution of the Republic of Indonesia , Article 1 paragraph (3) of the Constitution of the Republic of Indonesia is clear state that Indonesia is a rule of law country ,¹ matter the make all over aspect in life nation and state must subject to applicable law , as well uphold tall right basic human , and guarantee all citizens of the same country his position in front of law (*equality before the law*).

As it increases phenomenon problem law so there is also an increase in purposeful research For dig various problem from perspective existing laws and regulations . Legal studies that use

¹Indonesia, 1945 Constitution of the Republic of Indonesia , results amendment third , Article 1 paragraph (3).

basics law , theory and legislation in study something problem , becomes very important in find solution law on something the problem you want studied .

The law must made footing in nation and state for the purpose main from a legal state ie create order , security and tranquility a country can achieved . Upright law in a country you can achieved if happen good synergy between government and citizens . Government No can Act arbitrary and neither is society can Act as you like heart with ignore regulation current regulation.

In today 's modern society complex as product progress technology , industrialization and urbanization bring up Lots problem social . So try adaptation or adjustment self to Modern society is very complex That become No easy . Difficulty stage adaptation and adjustment causes Lots confusion , anxiety and conflict . Good conflict open external , as well as deep internal inner itself hidden and closed its nature . As impact arise pattern Act in demand deviate from general norms , with road do whatever himself for profit yourself and your interests private , then annoying and detrimental party other .

Narcotics is substance or originating drug from plant or No plants , fine synthetic or semi-synthetic , which can cause decline or change consciousness , loss of feeling, reduced until relieve pain , and can give rise to dependency . ²In one side narcotics is drug or useful material in the field treatment , service health , and development knowledge knowledge . Development use narcotics mature This the more increases , and no For objective interest treatment or interest knowledge knowledge , aim obtain very big profits . The goals mentioned above achieved through Then cross trading narcotics illegal Good nature of transactions nature of transactions international . ³

At the moment abuse narcotics especially in Indonesia already reach worrying point . That matter can seen from results research by the National Narcotics Agency in 2021 regarding Research Results in the Context of Prevention , Eradication , Abuse and Illegal Trafficking in Narcotics (P4GN). In research the mentioned that number prevalence abuse Drugs in Indonesia are increasing from 1.80% or equivalent to 4,534,744 people in 2019 to 1.95 % or equivalent with 4,827,616 people in 2021 already Once use drugs in the group aged 15-24 years and 50-64 years . ⁴ Crime narcotics Already No Can We look as crime normal but Already become crime outside normal .

Enforcement law to circulation dark narcotics and psychotropic substances No forever become rights and obligations enforcer law . Crime This in a way general is one of form organized crime and its modus operandi can pass crossing borders between countries or can called as crime

²Indonesia, *Law Republic of Indonesia about Narcotics* , Law Republic of Indonesia Number 35 of 2009, State Gazette of the Republic of Indonesia of 2009 Number 143, Supplement State Gazette of the Republic of Indonesia Number 5062. Article 1 number 1.

³ Romli Atmasasmita , *Action Criminal Narcotics Transnationalism in the Indonesian Criminal Law System* , (Bandung: Citra Aditya Bakti, 1997), p . 1.

⁴ National Narcotics Agency Research , Data and Information Center (PUSLITDATIN BNN), " Indonesia Drugs Report 2022" , available on the site <https://puslitdatin.bnn.go.id/> , accessed on September 1 2023, at . 11.00 WIB .

transnational , then role as well as society really needs it , good public local , regional or international .⁵

Crime narcotics Still So problem chronic disease that befell Indonesia. Various method Already tried by the government in eradicate crimes already snatch Lots life child nation This . One of them is in the field required regulations with promulgation Constitution Republic of Indonesia Number 22 of 1997 concerning Narcotics . Simultaneously with growth crime narcotics , Law the No Again adequate , up to issued Constitution Republic of Indonesia Number 35 of 2009 concerning Narcotics .

Problem misuse and distribution dark drugs is one of problem keep it serious confiscate attention . Role effort as well as all over agency government , private , education , and components public must Keep going moved and given room For create clean environment from misuse and distribution dark drugs . Apart from that , effort the aim provide a sense of security public through Prevention and Eradication , Abuse and Illicit Trafficking in Narcotics and Precursors Narcotics (P4GN) as mandated in Constitution Number 35 of 2009 concerning Narcotics .

Constitution Republic of Indonesia Number 35 of 2009 has give space for abusers narcotics and victims for undergo rehabilitation medical and rehabilitation more social carry on arranged in Article 54 namely “ Addicts Narcotics and victims of abuse narcotics must undergo rehabilitation medical and rehabilitation social ”.⁶ If withdrawn more way on point explanation that the victim is in matter This someone who doesn't on purpose use Narcotics Because persuaded , deceived , deceived , forced , and/ or threatened For use Narcotics .⁷ However arrangement related Proving the victim is very difficult realized . Beside that is necessary proof that user moment use narcotics in circumstances persuaded , deceived , deceived , forced and/ or threatened For use narcotics .

And in the application follow criminal narcotics group I for self yourself in condition moment This Still there are inconsistent judges in give the verdict . This matter Can seen from results decision 364/ Pid.Sus /2022/PN Mnd About Abuse Narcotics inside decision state the defendant Muhammad Haris alias Nawang has proven in a way valid and convincing guilty do follow criminal “ Abuse Narcotics group I for self Alone ”. Drop criminal to Defendant , therefore That with criminal prison for 1 (one) year and 6 (six) .

Legal facts proven at trial that is as following : defendant start using in Makassar Prov. South Sulawesi and finally use Narcotics type of methamphetamine is in March 2022 in the city of Makassar prov. South Sulawesi. Defendant start use narcotics type of methamphetamine in the city of Manado Province North Sulawesi in 2018. That , the goal Defendant use Narcotics is For used or consumed Alone Because task defendant as driver tool how heavy are the working hours? until Evening day so as not to drowsiness and condition stay fit. Based on Assessment Results Medical and assessment law from BNNP Manado No. R/23/VII/Ka/PB.06/2022/BNNP dated 22 July 2022 in the Assessment Team Conclusion section Integrated that suspect Muhamad Haris. Suspect is user Narcotics type of shabu stage moderate , and needy therapy rehabilitation take care

⁵Siswanto Sunarso , *Legal Politics in Law Narcotics (Law Number 35 of 2009)* , (Jakarta: Rineka Cipta, 2012), p . 80.

⁶Indonesia, Law Republic of Indonesia Number 35 of 2009 concerning Narcotics , Article 54.

⁷ Indonesia, Law Republic of Indonesia Number 35 of 2009 concerning Narcotics , Explanation of Article 54.

walk to the clinic North Sulawesi BNNP Pratama for at least 2 months . Evidence found from suspect weighing 0.17 grams (under SEMA No. 04 of 2010) is appropriate results weigh BB at the pawn shop . Suspect Not yet Once rehabilitated Not yet found indication involvement suspect in National network as well International .

Problem more carry on in Constitution Republic of Indonesia Number 35 of 2009 that perpetrator follow criminal abuser narcotics is arrange about criminal prison given to the perpetrators abuser narcotics . Then One side There is stated provisions that to addict narcotics can sentenced verdict rehabilitation . This matter means Constitution Republic of Indonesia Number 35 of 2009 in one side Still consider addict narcotics as perpetrator follow criminal , and on the other hand is a victim of abuse the narcotics he committed .

One of regulated method in regulation legislation in cure dependency to narcotics is through rehabilitation . Rehabilitation is also a thing solution For reduce *over* capacity institution correctional . Rehabilitation divided on 2 (two) methods ie rehabilitation medical and rehabilitation social . Rehabilitation Medical is an activity process treatment in a way integrated For freeing addict from dependency narcotics ,⁸ whereas rehabilitation social is an activity process recovery in a way integrated , good physical , mental or social , so that secondhand addict Narcotics can return carry out function social in life public .⁹

Depart from the description above , then can formulated a number of problem the main thing will be researched and disclosed in writing This is as following :

1. How arrangement law to follow criminal abuse narcotics group I based Constitution Number 35 of 2009 Concerning Narcotics ?
2. What procedures and criteria application to follow criminal abuse narcotics group I for self Alone ?

RESEARCH METHODS

Types of research This is study law juridical normative . Study law juridical normative this can also be called as study law doctrinal . Dogmatic Legal Science reviewing , maintaining and developing building law positive with building logic , the so -called “ doctrinal ” studies or also called study “ normative ” law . Approach study use method approach legislation (statute approach), approach case (case approach) and approach conceptual . The type of data in this research is Secondary Data. This is a very important factor, because the data source will relate to the quality and results of the research. Therefore, the data source is a consideration in determining the data collection method. Data collection techniques used in study This is technique study bibliography ((library research). Data collection tools can in the form of document study or studies References or study bibliography (library research) for obtain secondary data .

RESULTS AND DISCUSSION

⁸Indonesia, Law Republic of Indonesia Number 35 of 2009 concerning Narcotics , Article 1 number 16.

⁹Indonesia, Law Republic of Indonesia Number 35 of 2009 concerning Narcotics , Article 1 number 17.

A. Legal Arrangements for Act Criminal Abuse Narcotics Group I Based on Constitution Number 35 of 2009 Concerning Narcotics

In system law in Indonesia, abuse narcotics qualified as crime in the field regulated narcotics in Constitution Republic of Indonesia Number 35 of 2009 concerning Narcotics . This matter can seen in provisions of Article 1 number 15 of the Law Republic of Indonesia Number 35 of 2009 which states : " A misuser is a person who uses Narcotics without right or oppose law " ¹⁰

From understanding the can said that Abuse is user . However , Law Republic of Indonesia Number 35 of 2009 no load What do you mean with “ user narcotics ” as subjects (people), of which there are many found is use as a verb . If linked with understanding narcotics as mentioned in Article 1 number 1 of the Law Republic of Indonesia Number 35 of 2009, then User Narcotics is the person who uses it substance or originating drug from plants , fine synthesis or semi-synthesis that can be done cause decline or change consciousness , loss taste, reduce until relieve pain , and can give rise to dependency , which is differentiated in groups as attached in Constitution This .¹¹

Use the term “ User Narcotics ” used For makes it easier in mention for people who use narcotics and for differentiate with growers , producers , distributors , couriers and distributors narcotics .¹² Although growers , producers , distributors , couriers and distributors narcotics sometimes also use narcotics .

More carry on about arrangement follow criminal abuse narcotics it 's inside provisions of Article 127 of the Law Republic of Indonesia Number 35 of 2009 stated :

Verse (1): “ Every Abuse :

- a. Narcotics Group I for self Alone convicted with criminal imprisonment for a maximum of 4 (four) years ;
- b. Narcotics Group II for self Alone convicted with criminal imprisonment for a maximum of 2 (two) years ; And
- c. Narcotics Group III for self Alone convicted with criminal imprisonment for a maximum of 1 (one) year

Verse (2): “In deciding case as referred to in paragraph (1), the judge is obliged notice provision as intended in Article 54, Article 55 and Article 103”.

¹⁰Indonesia, Law Republic of Indonesia Number 35 of 2009 concerning Narcotics , Article 1 number 15.

¹¹ Puteri Hikmawati , “ Analysis To Penalty Criminal for Users Narcotics ”, Journal of Legal Affairs, Vol. 2, no. 2, 2011, p . 329-350.

¹² UN Convention on Eradication Illicit Trafficking in Narcotics and Psychotropics 1988 as ratified with Constitution Republic of Indonesia Number 7 of 1997 concerning Endorsement *United Nations Convention Against Illicit Traffic In Narcotic Drugs And Psychotropic Substances* , 1988 (UN Convention on Eradication Illicit Trafficking in Narcotics and Psychotropic Substances 1988) , State Gazette of the Republic of Indonesia 1997 Number 17, Supplement State Gazette of the Republic of Indonesia Number 3673 , using term usage For interest Alone .

Verse (3): “In terms of Abuse as referred to in paragraph (1) can proven or proven as victims of abuse Narcotics , Abuse must undergo rehabilitation medical and rehabilitation social ”.¹³

With thus , against abuse narcotics For group I for self itself by law Republic of Indonesia Number 35 of 2009 concerning Narcotics convicted with criminal imprisonment for a maximum of 4 (four) years .¹⁴

Whereas developments in the world today This show happen trend change strong in looking at users narcotics that are not Again seen as perpetrator criminal , however as a victim or the patient must given empathy .¹⁵ If a addict narcotics has sentenced guilty by the judge above follow criminal the narcotics he did , for give chance to those concerned to be free from addiction , the judge can decide For ordered the person concerned undergo treatment and/ or maintenance . Likewise , if addict narcotics No proven guilty on accusation do follow criminal narcotics , in the only sense as user ingested narcotics persuasion , the judge can set For ordered the person concerned undergo treatment and/ or maintenance . Provision This loaded in Article 103 of the Law Republic of Indonesia Number 35 of 2009 which reads as following :

Paragraph (1): “The judge examines case Addict Narcotics can :

- a. disconnect For ordered the person concerned undergo treatment and/ or maintenance through rehabilitation If Addict Narcotics the proven guilty do follow criminal Narcotics ; or
- b. set For ordered the person concerned undergo treatment and/ or maintenance through rehabilitation If Addict Narcotics the No proven guilty do follow criminal Narcotics ”.

Verse (2): “Period of living treatment and/ or maintenance for Addict Narcotics as referred to in paragraph (1) letter a is taken into account as a living period punishment ”.¹⁶

The provisions of Article 103 above , against abuser narcotics get guarantee rehabilitation This mentioned in Article 4 letter d of the Law Republic of Indonesia Number 35 of 2009, namely : “ Law about Narcotics aim ensure arrangement effort rehabilitation medical and social for Abusers and addicts Narcotics ”.¹⁷

However provisions of Article 4 letter d and Article 103 of the Law Republic of Indonesia Number 35 of 2009 concerning right abuser narcotics group I (one) for self Alone For get rehabilitation become No recognized , because exists arrangement provisions of Article 54 and Article 127 paragraph (1) letter a of the Law Republic of Indonesia Number 35 of 2009. Confusion

¹³Indonesia, Law Republic of Indonesia Number 35 of 2009 concerning Narcotics , Article 127 paragraph (1), paragraph (2), and paragraph (3).

¹⁴Indonesia, Law Republic of Indonesia Number 35 of 2009 concerning Narcotics , Article 127 paragraph (1) letter a.

¹⁵ Dani Krisnawaty and Eddy OS Hiariej, *Anthology of Criminal Law Special* , (Jakarta: Pena Pundi Aksara, 2006), p . 99.

¹⁶Indonesia, Law Republic of Indonesia Number 35 of 2009 concerning Narcotics , Article 103 paragraph (1) and paragraph (2).

¹⁷Indonesia, Law Republic of Indonesia Number 35 of 2009 concerning Narcotics , Article 4 letter d.

arrangement This can be seen from sound provisions of Article 54 of the Law Republic of Indonesia Number 35 of 2009 which states : " Addicts Narcotics and victims of abuse Narcotics must undergo rehabilitation medical and rehabilitation social ".¹⁸ That means , from provisions of Article 54 and Article 127 paragraph (1) letter a of the Law Republic of Indonesia Number 35 of 2009 , abusers narcotics group I (one) for self Alone made subject the law can be convicted and become lost right rehabilitation , except can be proven or proven as a drug victim .¹⁹ Whereas proof abuser narcotics is a victim of narcotics is something difficult thing , because must be seen from beginning user narcotics use narcotics . Beside that 's necessary proven that user narcotics when use narcotics in condition persuaded , deceived , deceived , forced and/ or threatened For use narcotics .²⁰

Notice provisions in the articles mentioned above , then can be said Constitution Republic of Indonesia Number 35 of 2009 concerning Narcotics has adhere to *double track system* in formulation penalty to follow criminal abuse narcotics group I (one) for self Alone . That means , act criminal abuse narcotics group I (one) for self Alone according to Constitution Republic of Indonesia Number 35 of 2009 , in one side is perpetrator follow criminal abuse narcotics with exists governing provisions about penalty criminal prison is given , but on the other hand abuse narcotics group I (one) for self Alone is the designated victim exists provision can be sentenced decision rehabilitation .²¹

Based on review victimology that abuser narcotics in matter This group I (one) for self Alone is as *self-victimizing victims* namely the victim as perpetrator , victimology still set abuse narcotics group I (one) for self Alone as a victim, albeit a victim of follow the crime / crime he committed Alone . Therefore that , then abuser narcotics group I (one) for self himself who is also a worthy victim For get protection . However , because abuser narcotics group I (one) for self myself as well perpetrator something follow criminal / crime so he should too still be punished , because matter here it is so said that *double track system* in formulation penalty to abuse narcotics group I (one) for self Alone is policy law criminal in formulation governing provisions about sanctions given to perpetrator abuser narcotics group I (one) for self himself , that is form penalty criminal and sanctions action remember perpetrator abuser narcotics group I (one) for self Alone own few positions different with perpetrator follow criminal other .²²In one side He is perpetrator follow mandatory punishment punished , but on the other hand is a victim of follow the crime he committed That myself , so need done something action form rehabilitation . Determination

¹⁸Indonesia, Law Republic of Indonesia Number 35 of 2009 concerning Narcotics , Article 54.

¹⁹ More carry on Look provisions of Article 127 paragraph (3) of the Law Republic of Indonesia Number 35 of 2009 concerning Narcotics which states : "In terms of Abuse as referred to in paragraph (1) can be proven or proven as victims of abuse Narcotics , Abuse must undergo rehabilitation medical and rehabilitation social " .

²⁰ Randana Hafid Pratama and Andri Winjaya Laksana, " Overview Juridical Construction Regulations To Act Criminal Abuse Narcotics for Yourself Based on the Principle of Benefit " , Journal Sultan Agung Scientific Sultan Agung Islamic University, Semarang, ISSN: 2963-2730, pp . 130-141.

²¹ Krishna Wisantya , I Nyoman Gede Sugiarta , and Anak Agung Sagung Laksmi Dewi, " Accountability Criminal Narcotics Addicts and Abusers Based on Groups " , Journal Legal Analogy , Vol. 3 No. 3, 2021, p . 338-343.

²² Albret Duvry and Adi Mansar, " Analysis Application of Article 127 Single Against Perpetrator Act Criminal Narcotics in Law Number 35 of 2009 Concerning Narcotics (Study at the Directorate Investigation Drugs North Sumatra Regional Police)" , Journal Doctrine Review of the Master of Laws Postgraduate Program, Muhammadiyah University of North Sumatra, Vol. 2, no. 1, 2023, p . 24-34.

penalty to abuser narcotics group I (one) for self yourself , whether will applied penalty criminal or penalty action , determination is in the hands of the judge.²³

Therefore that , framework jurisdiction that has is inside Constitution Republic of Indonesia Number 35 of 2009 should be used by internal judges disconnect users and abusers drugs group I (one) for self Alone namely Article 127 paragraph (1) letter a of the Law Republic of Indonesia Number 35 of 2009 concerning Narcotics . Put abuser narcotics group I (one) for self Alone to in institution rehabilitation through the judge's decision is alternative giving penalty very good crime in frame *deferent aspect* and *reformative aspect* perpetrator abuser narcotics group I (one) for self themselves and coping circulation dark drugs when compared to with apply perpetrator with penalty criminal prison , sanctions criminal form rehabilitation done through rehabilitation medical nor rehabilitation social . Rehabilitation intended aimed at users or abuser narcotics regardless from dependency use narcotics .

After Constitution Republic of Indonesia Number 35 of 2009 concerning Narcotics walk during more of 14 years , the Supreme Court of the Republic of Indonesia (MA RI) issued A letter circular For give instruction for judges, namely a Circular Letter Supreme Court of the Republic of Indonesia Number 04 of 2010 concerning Placement Abuse , Abuse Victims and Addicts Narcotics to in a Rehabilitation Institution Medical and Rehabilitation Social which is revision from the Circular Letter Supreme Court of the Republic of Indonesia Number 07 of 2009. Of course Circular Letter this Supreme Court is step advance inside build paradigm termination criminalization or decriminalization to abuser narcotics specifically abuser narcotics group I (one) for self Alone .

Punishment prison for abuser narcotics group I (one) for self Alone proven No can lower amount abuser narcotics in Indonesia.²⁴ Even with application penalty prison for abuser narcotics group I (one) for self Alone impact on advantages capacity inmates of correctional institutions (Lapas) in Indonesia. For example just in a correctional facility Special Regional Province The capital city of Jakarta (DKI Jakarta) is only own capacity residence as many as 5,791 people. However In reality, DKI Jakarta Prison is inhabited by 18,538 inmates . This means that DKI Jakarta Prison is experiencing *overcapacity* up to 200 percent . From the amount residents There are 13,496 prisoners in DKI Jakarta Prison is prisoner case follow criminal narcotics .²⁵ Excess capacity residence Prison This Of course give rise to problem including disturbances mental health , deviance behavior sexual , transmission disease , contagion crime and its occurrence follow violence , emergence dirty environment as well as low quality service to prisoner .²⁶

²³ Junaidi, Application of Articles 54, 103, and Article 127 Paragraph (2) and Paragraph (3) of the Law Number 35 of 2009 Concerning Narcotics in progress Case in District Court Against Abuse Narcotics for Yourself , Journal Binamulia Law, Vol. 8, no. 2, 2019, p . 191-202.

²⁴ Anang Iskandar, Abuse Narcotics , Imprisonment or Rehabilitation ”, available on the site <https://e-journal.trisakti.ac.id/>, accessed on February 7 2024 , at 13.45 WIB .

²⁵ bnn.go.id, “Prisons Excess Capacity”, (18 December 2019), available on the site <https://bnn.go.id/>, accessed on 7 February 2024, at 14.00 WIB .

²⁶ Hasanuddin, " Exceeding Housing Capacity, Intermediate Prisoners Experience Dehumanization in Prisons ", article published in Radar Bandung Daily, Friday Edition , 6 November 2009, available on the site <https://123dok.com/>, accessed on 7 February 2024, at 14.15 WIB .

Paradigm termination criminalization or decriminalization to abuser narcotics specifically abuser narcotics group I (one) for self Alone This will Keep going enforced . This matter can seen in renewal policy law Indonesian criminal law as stated arranged in Constitution Republic of Indonesia Number 1 of 2023 concerning the Criminal Code which will be came into force on January 2, 2026. ²⁷In Article 105 of the Law Republic of Indonesia Number 1 of 2023 is mentioned that :

Paragraph (1): “ Rehabilitation measures acquaintance to defendant who:

- a. addicted alcohol , narcotics , psychotropic substances and substances addictive other ; and/ or
- b. bear mental disability and/ or disability intellectual ”.

Paragraph (2): “ Rehabilitation as referred to in paragraph (1) consists of on :

- a. rehabilitation medical ;
- b. rehabilitation social ; And
- c. rehabilitation psychosocial ”.²⁸

Rehabilitation to abuser narcotics group I (one) for self Alone adhere to theory *treatment* and *social defense* .²⁹ Rehabilitation to abuser narcotics group I (one) for self Alone adhere to theory *treatment* because rehabilitation to abuser narcotics group I (one) for self Alone is an activity process treatment in a way integrated For freeing abuser narcotics as addict from dependency . That matter in accordance with punishment intended in the flow theory *treatment* that is For give action care (*treatment*) and improvement (*rehabilitation*) to perpetrator crime as replacement from punishment . Perpetrator crime in follow criminal abuser narcotics group I (one) for self Alone is a sick person so that need action maintenance (*treatment*) and repair (*rehabilitation*).

B. Procedures and Criteria Application To Act Criminal Abuse Narcotics Group I For Yourself

As has been writer explain in section before this , that presence Constitution Republic of Indonesia Number 35 of 2009 concerning Narcotics this is one of them aim ensure arrangement effort rehabilitation medical and rehabilitation social for abuser and addicts narcotics .³⁰ Likewise inside provisions of Article 54 of the Law Republic of Indonesia Number 35 of 2009 which states that : “ Addict Narcotics and victims of abuse Narcotics must undergo rehabilitation medical and rehabilitation social ”.³¹

However Constitution Republic of Indonesia Number 35 of 2009 concerning Narcotics No explain definition about rehabilitation That Alone . Article 1 number 16 of the Law Republic of

²⁷Indonesia, *Law Republic of Indonesia regarding the Criminal Code* , Law Republic of Indonesia Number 1 of 2023, State Gazette of the Republic of Indonesia 2023 Number 1, Supplement State Gazette of the Republic of Indonesia Number 6842 . Article 624 states : “ Law This start applies after 3 (three) years counted since date invited ”.

²⁸Indonesia, Law Republic of Indonesia Number 1 of 2023 concerning the Criminal Code , Article 105 paragraph (1) and paragraph (2).

²⁹Puteri Hikmawati , *Loc. Cit* .

³⁰Indonesia, Law Republic of Indonesia Number 35 of 2009 concerning Narcotics , Article 4 letter d.

³¹Indonesia, Law Republic of Indonesia Number 35 of 2009 concerning Narcotics , Article 54.

Indonesia Number 35 of 2009 only explain about understanding Rehabilitation Medical is an activity process treatment in a way integrated For freeing addict from dependency Narcotics .³² Whereas rehabilitation social is an activity process recovery in a way integrated , good physical , mental or social , so that secondhand addict Narcotics can return carry out function social in life public .³³

Rehabilitation is a program for help restore the person who has disease chronic Good from physique or psychological . Rehabilitation means recovery capacity physical and mental to condition or circumstances previously . For abusers and/ or addict drugs , rehabilitation is a necessary process carried out in frame recovery completely (*full recovery*), for life normative , independent and productive in society .³⁴ Rehabilitation is also possible interpreted as a recovery process resident disturbance use Narcotics , Psychotropics , and Addictive Substances others (drugs) are good in period time short nor purposeful length change behavior For return function individual it in society .³⁵

Rehabilitation to addict narcotics is a treatment process For freeing addict from dependency , and living time rehabilitation the taken into account as a living period punishment . Rehabilitation to addict narcotics are also something form protection integrating social addict narcotics to in orderly social order him No Again do abuse narcotics .

Rehabilitation sustainable wrongdoer use and/ or addict drugs begins with stages rehabilitation medical purpose restore health physical and psychological /mental abuse and/ or addict drugs through service health and therapy medical / psychiatric . Stages furthermore that is rehabilitation social purpose integrate return abuser and/ or addict drugs to in life public with method restore thought processes , behavior and emotions as component his personality to be able interact in the environment social (in environment rehabilitation) .

There are some stages in rehabilitation medical this , that is consists from :

1. Stage Rehabilitation Medical (*Detoxification*)

Stage This addict checked all over his health Good physical and mental by a doctor trained . The doctor decides is addict need given drug certain For reduce symptom separated substance that he suffering . Giving drug depends from type drugs and weight its light symptom separated substance . In terms of This doctor need sensitivity , experience , and expertise To use detect symptom addicted drugs .

2. Stage Non- Medical Rehabilitation

Stage This addict follow in a rehabilitation program . In Indonesia already built places rehabilitation , as example under the National Narcotics Agency is places rehabilitation in the Lido area .

3. Advanced Build Level (*After Care*)

³²Indonesia, Law Republic of Indonesia Number 35 of 2009 concerning Narcotics , Article 1 number 16.

³³Indonesia, Law Republic of Indonesia Number 35 of 2009 concerning Narcotics , Article 1 number 17.

³⁴ National Narcotics Agency , *Rehabilitation Blueprint Sustainable* , (Jakarta: BNN RI, 2011) , p . 19.

³⁵ National Narcotics Agency , *Technical Guidelines for Rehabilitation of Therapeutic Communities (TC)* , (Jakarta: BNN RI, 2012) , p . 4.

Stage This addict given activity in accordance with interest and talent For fill in activity everyday , addict can return to school or place Work However still is under supervision .³⁶

Governance rehabilitation medical for addicts , abusers , and victims of abuse the narcotics are coming in a way voluntary , or moderate undergo the process of investigation , prosecution , or the judge or those who have get decision / decision court based on Regulation of the Minister of Health of the Republic of Indonesia Number 4 of 2020 concerning Maintenance Institution Recipients Must Report ,³⁷ is :

1. Procedure Services in Institutions Recipients are required to report addicts , abusers and victims of abuse Coming Narcotics By Volunteer

Procedure services at the Institution Recipients are required to report addicts , abusers , and victims of abuse Narcotics are coming in a way volunteer (above will themselves / parents / guardians) as following :

- a. Assessment , use Form Mandatory Reporting and Rehabilitation Assessment Medical .
- b. Test urine (*urinalysis*) for detect There is or or not Narcotics , Psychotropics and Addictive Substances other (drugs) in body addicts , abusers , and victims of abuse Narcotics .
- c. Giving counseling base addiction Narcotics , intended For study understanding patient on the disease as well as his understanding will recovery . Giving counseling basic is also intended For increase motivation patient in do change behavior to more direction positive .
- d. Addicts , abusers , and abuse victims Narcotics in possession history drug use with method injection , given counseling pre-test *HIV* and offered For do inspection *HIV* and/ or Hepatitis C is appropriate need .
- e. Inspection other support if required .
- f. Drafting plan therapy covers plan Rehabilitation Medical and/ or social , and intervention psychosocial .
- g. Rehabilitation Medical in accordance plan possible therapy form take care walking (*symptomatic* or *maintenance*) or take care stay .³⁸

2. Procedure Services in Institutions Recipients are required to report addicts , abusers and victims of abuse Narcotics Undergoing Investigation (Suspects) , Prosecution or Trial (Defendant) .

- a. Procedure Submission Suspect or Defendant to Institution Recipients Must Report

³⁶ Daru Wijayanti , *Mental Revolution to Stop Abuse Narcotics* , (Yogyakarta: Indoliterasi , 2016) , p . 97-98.

³⁷Indonesia, *Regulation of the Minister of Health of the Republic of Indonesia concerning Maintenance Institution Recipients Must Report* , Regulation of the Minister of Health of the Republic of Indonesia Number 4 of 2020, State Gazette of the Republic of Indonesia of 2020 Number 30.

³⁸Indonesia, Regulation of the Minister of Health of the Republic of Indonesia Number 4 of 2020 concerning Maintenance Institution Recipients Must Report, Attachment Section Chapter II Procedures Services in Institutions Recipients are required to report letter A.

- b. Submission carried out by investigators or prosecutor general accompanied by the party family and the National Narcotics Agency (BNN)/ Provincial National Narcotics Agency (BNNP)/ Regency /City National Narcotics Agency (BNNK) (depending on the level cases and minutes of suspects), with attach recommendation plan therapy Rehabilitation Medical from the Assessment Team Integrated .
- c. Handover suspect or the defendant in the Institution Appointed Compulsory Report Recipient must accompanied with providing informed consent, ie agreement after get information from party institution rehabilitation from si suspect or accused , witnessed by investigators or prosecutor general and parties family .
- d. Procedure Rehabilitation Medical for Suspects or Defendant in Institution Recipients Must Report
 - 1) Rehabilitation Medical for suspect or defendant done with method take care stay or take care road , appropriate with request official written from party police , BNN/BNNP/BNNK (investigators), or prosecutor (prosecutor general) which is based on recommendations plan therapy rehabilitation from the Assessment Team Integrated , for period time rehabilitation Medical take care stay for a maximum of 3 (three) months .
 - 2) In terms of suspect or defendant undergo therapy Rehabilitation Medical take care road , authority presenting suspect or defendant For following the Rehabilitation process Medical lies with the investigator or prosecutor general (depending on level case).
 - 3) In terms of suspect or the defendant (patient) underwent therapy Rehabilitation Medical take care stay overnight , then during undergo care in Rehabilitation Medical , patient :
 - a) must follow the program determined by the Institution Recipient of the Mandatory Report ;
 - b) No bring tool communication ; And
 - c) communication with family / other parties must through power health does Rehabilitation Medical .
 - 4) For suspects or the accused fled yourself , no adhere to therapy (incl stop from the program), do dangerous violence other people's lives or do violation law , during the Rehabilitation process Medical , then Institution Compulsory Recipients Report is mandatory give report to party enforcer surrendering law .
 - 5) Party Institution Recipients are required to provide reports information to agency sender / custodian no later than 2 (two) weeks before the Rehabilitation period Medical finished . Patients who have finished undergo therapy Rehabilitation Medical picked up returned by the party who entrusted it suspect or accused (investigator) or prosecutor general).
 - 6) Institution Recipients are required to submit a final resume activity therapy Rehabilitation Medical .

- 7) Security and supervision suspect or defendants placed in institutions Recipients of Mandatory Reporting involve party police .³⁹
3. Procedure Services in Institutions Recipients are required to report Addicts , Abusers , and Abuse Victims Narcotics that Have Been Obtained Decision Court (Convict)
 - a. Procedure Submission Convict to Institution Recipients Must Report
 - 1) Submission carried out by the party attorney to Institution Recipients are required to report as appointed and accompanied by a Minutes of Determination / Decision Court signed by the officer prosecutor , the convict concerned and staff receiving health convict , with attach :
 - a) Copy/ excerpt letter determination court or letter decision the court has have strength law still ; And
 - b) Statement letter ability from convict For undergo Rehabilitation Medical in accordance plan therapy prescribed by the team doctor from the Assessment Team Integrated and following programs that apply to the institution rehabilitation in question in accordance with provision regulation legislation . Statement letter ability This must signed by the patient and family / guardian .
 - 2) Submission carried out during working hours administrative institution designated rehabilitation .
 - b. Procedure Rehabilitation Medical Convicted in Institutions Recipients Must Report
 - 1) By general , convict must take part in the applicable program at the Rehabilitation Institution Medical those , the same with a share program addicts , abusers , and victims of abuse Narcotics are coming in a way volunteer (above own / parent / guardian 's will) . That matter intended For ensure implementation program automatically consistent and delivering effect change positive behavior that is not nature discriminatory .
 - 2) During undergo Rehabilitation Medical , convict No permitted do communication , good direct nor No directly , with family for 1 (one) month First . That matter intended For minimize things that don't desired , like conspire enter Narcotics to in institution rehabilitation , planning go home force , and manipulate family For various objective .
 - 3) After undergo more programs from 1 (one) month , communication with family can done in accordance with the rules that apply in the Institution Recipients are required to report . In terms of required For related interests with law , convict can do communication with other parties outside family , above permission family , as long as undergo rehabilitation .
 - 4) Convict must undergo 3 (three) stages treatment , namely a care program stay initial , advanced program , and post program take care .

³⁹Indonesia, Regulation of the Minister of Health of the Republic of Indonesia Number 4 of 2020 concerning Maintenance Institution Recipients Must Report, Attachment Section Chapter II Procedures Services in Institutions Recipients are required to report letter B.

a) Early Inpatient Program

Convict must undergo rehabilitation take care stay in accordance with plan therapy . Rehabilitation steps take care overnight stay :

- (1) Signing process form willingness follow the appropriate program plan therapy .
- (2) Assessment beginning with use Form Mandatory Reporting/ Rehabilitation Assessment Medical .
- (3) Preparation plan therapy based on results assessment beginning .
- (4) Implementation of rehabilitation programs take care the stay is carried out in accordance procedure standard operations .

Component the services provided are minimal includes :

- (1) examination and management medical ;
- (2) examination and management medical advanced in accordance indication care nursing ;
- (3) HIV counseling and testing ;
- (4) Hepatitis C test (if need) ;
- (5) evaluation psychological ;
- (6) intervention psychosocial by energy existing health and / or worker social / counselor addiction ;
- (7) Assessment advanced with use Form Mandatory Reporting/ Rehabilitation Assessment Medical at least after 3 (three) months undergo therapy rehabilitation For see development problem patient and as base determination of advanced programs .

b) Advanced courses

After go through a treatment program stay early , one convict can undergoing a treatment program stay advanced or treatment program path , depending on the degree severity his addiction in accordance with results assessment continued :

(1) Advanced Inpatient Program

Given to patients with one or more conditions below This :

- (a) pattern use dependency ;
- (b) not yet show emotional mental stability in care stay beginning ;
- (c) experience complications physical and/ or psychiatric ; and/ or
- (d) ever own history therapy rehabilitation several times before .

Period time cumulative take care inpatient stay (initial and follow-up) for a maximum of 6 (six) months .

(2) Outpatient Advanced Program

Given to patients with one or more conditions below This :

- (a) have pattern nature of use recreational ;
- (b) substances main used is marijuana or amphetamines ;

- (c) substance main used is *opioids* , however concerned has is at in the recovery period before stuck follow criminal , or in a way active undergoing a therapy program maintenance previously ;
- (d) under 18 years of age ;
- (e) no experience complications physical and/ or psychiatric .

Convicts (patients) who take part in advanced programs take care road must check it out self returned to the nursing unit road Institution Recipients are required to report with frequency of at least 2 (two) times a week , depending on development condition patient For obtain service intervention psychosocial , prevention recurrence , and therapy medical in accordance needs , as well For undergo test urine in a way periodically or anytime .

(3) Post-Care Program

Addicts , abusers , and abuse victims Narcotics that have been carry out Rehabilitation Medical entitled For undergo rehabilitation social and return programs to appropriate society with provision regulation legislation . Institution Recipients are required to report intertwine Work The same with House rehabilitation social owned by government or society , or with Non-Governmental Organizations (NGOs) that provide service post take care .

- 5) For convicts who escape yourself , no adhere to therapy (incl stop from the program), do dangerous violence other people's lives or do violation law , during the Rehabilitation process Medical , then Institution Compulsory Recipients Report is mandatory give report to party enforcer surrendering law .⁴⁰

CONCLUSION

1. Abusers are people who use Narcotics without right or oppose law . Arrangement to follow criminal abuse narcotics group I (one) for self alone inside Constitution Republic of Indonesia Number 35 of 2009 concerning Narcotics adhere to *double track system* in formulation penalty to follow criminal abuse narcotics group I (one) for self Alone . That means , act criminal abuse narcotics group I (one) for self Alone according to Constitution Republic of Indonesia Number 35 of 2009 , in one side is perpetrator follow criminal abuse narcotics with exists governing provisions about penalty criminal prison given . This matter as regulated in the provisions of Article 127 paragraph (1) letter a which states that : “ Every Narcotics Abusers Group I (one) for self Alone convicted with criminal prison for 4 (four) years ”. But on the other hand , it is misuse narcotics group I (one) for self Alone is the designated victim exists provision can sentenced decision rehabilitation . This matter as regulated in provisions of Article 103 of the Law Republic of Indonesia Number 35 of 2009, where to abuser narcotics get guarantee rehabilitation . Provision the of course very suitable when reviewed from provisions of Article 4 letter d of the Law Republic of Indonesia Number

⁴⁰Indonesia, Regulation of the Minister of Health of the Republic of Indonesia Number 4 of 2020 concerning Maintenance Institution Recipients Must Report, Attachment Section Chapter II Procedures Services in Institutions Recipients are required to report letter C.

35 of 2009 which states that : “ Law about Narcotics aim ensure arrangement effort rehabilitation medical and social for Abusers and addicts Narcotics ”.

2. For abusers and/ or addict drugs , rehabilitation is a necessary process carried out in frame recovery completely (*full recovery*), for life normative , independent and productive in society . Procedures and criteria application follow criminal abuser narcotics group I (one) for self Alone in form action as mentioned in Article 4 and Article 103 of the Law Republic of Indonesia Number 35 of 2009 concerning Narcotics can carry out action rehabilitation medical for abuser narcotics group I (one) for self Alone well that's coming in a way voluntary , moderate undergo the process of investigation , prosecution , or the judge or those who have get decision / decision court based on Regulation of the Minister of Health of the Republic of Indonesia Number 4 of 2020 concerning Maintenance Institution Recipients Must Report.

SUGGESTION

1. Remember Constitution Republic of Indonesia Number 35 of 2009 concerning Narcotics adhere to *double track system* in formulation penalty to follow criminal abuse narcotics group I (one) for self yourself , then for the judge it should be more Lots disconnect penalty form action that is rehabilitation , especially The Supreme Court of the Republic of Indonesia (MA RI) has emit A letter circular For give instruction for judges, namely a Circular Letter Supreme Court of the Republic of Indonesia Number 04 of 2010 concerning Placement Abuse , Abuse Victims and Addicts Narcotics to in a Rehabilitation Institution Medical and Rehabilitation Social . This will too can be one effort solution from problem existing capacity of Correctional Institutions (Lapas). *overloaded* .
2. Government need increase facilities and infrastructure as well as add amount power companion / counselor in a rehabilitation program This is a rehabilitation program This in its implementation can walk with good and effective .

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