

The Effectiveness of Rehabilitation as an Alternative to Punishment in Narcotics Cases: An Analysis of Legal Compliance and the Criminological Impact on Users

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ABSTRACT

The narcotics problem in Indonesia remains a serious issue that impacts not only legal aspects, but also health, social, and national security. This study aims to analyze the effectiveness of rehabilitation as an alternative to criminal punishment for drug abusers, specifically in terms of compliance with the implementation of Article 103 and Article 127 of Law Number 35 of 2009 concerning Narcotics, the success rate of rehabilitation in reducing recidivism, and various obstacles that hinder its implementation. This study uses a normative-empirical legal method with a legislative, conceptual, case, and criminological approach. The results show that rehabilitation is basically more effective than imprisonment because it is oriented towards restoring the biological, psychological, and social conditions of drug abusers. However, its implementation is still not optimal due to inconsistent application by judges and the Integrated Assessment Team (TAT), limited rehabilitation facilities, and the strong social stigma against drug addicts. From a criminological perspective, the rehabilitative approach is considered more capable of reducing the risk of recidivism than conventional punishment. Thus, rehabilitation needs to be strengthened as the mainstay of handling drug abusers by increasing compliance of law enforcement officers, strengthening rehabilitation institutions, and changing the societal paradigm to be more oriented towards recovery rather than punishment.

INTRODUCTION

The drug problem in Indonesia remains a serious issue, impacting various aspects of life, from public health and social stability to economic productivity and national security. Indonesia is even categorized as a country with a high level of drug vulnerability, given its strategic position as a transit area and potential market for international drug trafficking. The continued rise in drug abuse demonstrates that this problem is not simply a criminal issue, but a complex social phenomenon that requires a multidimensional approach.

Based on data from the National Narcotics Agency (BNN) and the findings of various academic studies, it is known that the majority of drug offenders are not dealers or distributors, but rather users or victims of abuse who truly need treatment and recovery. They generally fall into this trap due to environmental factors, peer pressure, psychological problems, exposure to the dark web, and a lack of education about the dangers of drugs. Legally, users fall into the categories of "addicts" and "victims of abuse," who should receive rehabilitation as mandated by Law Number 35 of 2009 concerning Narcotics.

However, the implementation of the law demonstrates a discrepancy between theory and practice. For years, law enforcement officials have predominantly used a repressive approach by imposing prison sentences on drug users. Users are often treated the same as traffickers, even though legally speaking, the two have very different characteristics and treatment needs. This is ironic because the prison sentence policy implemented contradicts the basic concept of the Narcotics Law, which prioritizes rehabilitation for users.

This tendency to impose prison sentences raises fundamental questions about the effectiveness of the repressive approach that has been the mainstream of drug management policies. Criminologically, the imposition of prison sentences on users often triggers new problems: users are at greater risk of exposure to larger criminal networks, experience mental health decline, become trapped in a cycle of recidivism, and struggle to reintegrate into society due to negative stigma. Prisons, which should be places of rehabilitation, in many cases do not provide adequate rehabilitation facilities to overcome drug dependence.

This situation demonstrates that drug control policies that rely too heavily on a repressive approach are not only ineffective but also inconsistent with the paradigms of public health and restorative justice. If users continue to be punished without rehabilitation efforts, the root causes of drug abuse are never addressed. Medical and social rehabilitation are believed to be more effective in breaking the chain of dependence, preventing recurrence of crime, and helping users return to productive lives.

Therefore, it is crucial to reevaluate the effectiveness of a rigid criminalization approach and prioritize rehabilitation as a more humane and effective alternative to punishment. This is the urgency of this research: analyzing the extent to which rehabilitation can provide a restorative impact, increase legal compliance, and have significant criminological effects on drug users.

Law Number 35 of 2009 concerning Narcotics actually opens up ample opportunity for users to receive medical and social rehabilitation as an alternative to punishment. This provision is clearly stated in Article 54, which emphasizes that drug addicts and victims of drug abuse are required to undergo rehabilitation. Furthermore, Article 103 authorizes judges to impose rehabilitation as a substitute for criminal punishment, either upon the request of the defendant, their family, or upon the recommendation of investigators and prosecutors. Various Supreme Court decisions also reinforce the understanding that rehabilitation is not merely an option, but an integral part of recovery-oriented drug law policy.

This regulation demonstrates a shift in the Indonesian legal paradigm regarding drug users. Addicts are no longer viewed solely as criminals who must be punished, but rather as individuals experiencing dependence and requiring comprehensive medical and psychosocial treatment. This approach aligns with developments in health science and modern criminological theory, which state that addiction is a form of health disorder, not merely a moral or criminal issue.

Rehabilitation is crucial because a purely punitive approach has proven ineffective in breaking dependency. Prison only provides a superficial deterrent effect, without addressing the root causes of drug abuse. Numerous studies have shown that incarcerated users are more likely to return to drug use after release, primarily due to the lack of appropriate medical therapy, psychological support, or social guidance. In this context, rehabilitation is seen as more effective in preventing recidivism, namely the repetition of criminal acts or drug abuse behavior.

Furthermore, rehabilitation is a manifestation of the restorative justice approach, which focuses on individual and community recovery, rather than retaliation. Through rehabilitation, users can improve their physical and mental health, restore relationships with their families, and restore their social functioning. This approach is believed to be able to guide users back to productive lives and away from environments that support abusive behavior.

At the policy level, providing rehabilitation as an alternative to criminal punishment is also a strategic step to address the problem of overcrowding in correctional institutions. The high number of incarcerated drug users has been a major cause of the overcrowding in various prisons in Indonesia. By diverting users to rehabilitation institutions, the prison burden can be reduced while users receive more appropriate services.

However, despite a clear legal basis, the implementation of rehabilitation in handling drug cases still faces various issues that require a comprehensive assessment of its effectiveness. In the field, disparities in treatment remain between regions due to differences in law enforcement officials' interpretation of the formal and material requirements of rehabilitation, including the Integrated Assessment (TAT) mechanism, which often does not operate optimally. The lack of rehabilitation facilities, both in terms of number, professional staff, and service capacity, also limits users' opportunities to receive appropriate treatment.

Furthermore, the social stigma of addicts as "criminals" often creates a psychological and structural barrier to rehabilitation, making many families and communities reluctant to support the recovery process. This situation further exacerbates the gap between legal norms guaranteeing rehabilitation and the reality of inconsistent implementation. Therefore, an in-depth assessment of the effectiveness of rehabilitation is necessary, both in terms of compliance with positive law and its criminological impact on reducing dependency and the risk of recidivism.

However, in practice, rehabilitation implementation often faces legal and technical obstacles. Many drug users remain imprisoned due to weak understanding by law enforcement officials, limited rehabilitation facilities, and concerns that the rehabilitative approach is not considered a deterrent. Furthermore, differing interpretations of the provisions regarding "victims of abuse," "addicts," and "users" contribute to the inconsistent implementation of rehabilitation across regions.

Criminologically, the imposition of prison sentences on drug users has been shown to have significant negative impacts. Prison not only fails to eradicate addiction, but also increases users' risk of exposure to illicit drug trafficking networks, inter-inmate violence, and social stigma that hinders reintegration. This demonstrates that conventional sentencing approaches do not provide a solution to reducing drug abuse.

In contrast, various criminology and public health studies confirm that rehabilitation is more capable of providing positive long-term effects, both in terms of health recovery, reducing recidivism, and improving the quality of life of former addicts. The rehabilitative approach also aligns with the principles of restorative justice, which seeks to restore the biological, psychological, and social conditions of users.

However, the effectiveness of rehabilitation as an alternative to criminal punishment still leaves many questions open: to what extent have rehabilitation mechanisms in drug cases been implemented in accordance with legal provisions? Does rehabilitation truly change user behavior and prevent re-abuse? What is its criminological impact on the sustainability of users' lives after completing the rehabilitation program?

Law Number 35 of 2009 concerning Narcotics introduced a paradigm shift, clearly separating dealers/dealers (who must be subject to heavy penalties) from addicts/abusers (who are viewed as victims who must be rehabilitated). This aligns with the concept of depenalization for users. Article 127 of the Narcotics Law serves as the primary basis for judges to impose rehabilitation sentences, rather than imprisonment.

Despite its strong legal basis, the implementation of rehabilitation as an alternative to criminal punishment faces several dilemmas:

1. **Assessment Conformity:** There is often a discrepancy between the results of the Integrated Assessment (TAT) recommending rehabilitation and court decisions that impose prison sentences, especially for drug users who also act as small-scale street dealers.

2. Institutional Capacity: Limited facilities, program quality, and human resources in rehabilitation institutions.
3. Criminological Effectiveness: The fundamental question of the extent to which rehabilitation programs are truly effective in the long term in breaking the cycle of addiction and preventing recidivism (repetition of criminal offenses).

This research is crucial for measuring the effectiveness of rehabilitation, not only in terms of procedural compliance, but also in terms of tangible results in the form of reduced recidivism rates and social recovery for users. This study is expected to contribute to the improvement of drug criminal law policy in Indonesia.

These various issues demonstrate the urgency of conducting in-depth research on the effectiveness of rehabilitation as an alternative to criminal punishment in drug cases, by examining aspects of legal compliance and the resulting criminological impacts. The results of this research are expected to contribute to the development of more humane, effective, and recovery-oriented criminal law policies.

From the above discussion, several research questions will be raised, as follows:

1. How do judges and the Integrated Assessment Team (TAT) comply with Articles 103 and 127 of the Narcotics Law when placing addicts in rehabilitation institutions?
2. To what extent are rehabilitation programs (medical and social) implemented as an alternative to criminal punishment effective in reducing recidivism rates (repeating criminal offenses) for former drug abusers?
3. What are the legal, structural, and criminological obstacles that hinder the effectiveness of rehabilitation, and what problem-solving strategies can be recommended?

LITERATURE REVIEW

The development of modern criminal law has shifted the approach to drug users from a purely punitive model toward a rehabilitative and restorative framework. This paradigm is reflected in Law Number 35 of 2009 concerning Narcotics, which recognizes drug addicts and victims of drug abuse as individuals who require treatment and recovery rather than imprisonment. Articles 54, 103, and 127 of the Narcotics Law provide a legal basis for the implementation of medical and social rehabilitation as an alternative to criminal punishment. From a criminological perspective, addiction is increasingly understood as a health disorder that involves biological, psychological, and social dimensions. Consequently, the rehabilitation approach seeks not only to address drug dependency but also to restore the individual's social functioning and prevent future involvement in criminal behavior. This perspective is consistent with restorative justice principles, which emphasize recovery, reintegration, and the restoration of social relationships rather than retribution.

Despite the strong normative foundation supporting rehabilitation, its implementation in Indonesia continues to face significant legal, institutional, and practical challenges. Various studies have shown that drug users are frequently sentenced to imprisonment even when rehabilitation is legally available and recommended through the Integrated Assessment Team (TAT). The persistence of punitive practices is often attributed to differing interpretations among law enforcement officials, limited rehabilitation facilities, inadequate professional resources, and societal perceptions that imprisonment provides a stronger deterrent effect. Criminological theories and empirical research, however, indicate that incarceration often fails to address the root causes of addiction and may increase the likelihood of recidivism by exposing users to criminal environments and reinforcing social stigma. In contrast, rehabilitation has been associated with improved health outcomes, reduced relapse rates, and greater social reintegration. Therefore, assessing the effectiveness of rehabilitation as an alternative to criminal punishment is essential to determine whether existing legal policies have been implemented consistently and whether rehabilitation can achieve its intended restorative and criminological objectives.

METHODOLOGY

This study employs a normative-empirical legal research approach, a mixed approach that combines analysis of written legal norms with a study of their application in practice. This approach was chosen because the issues studied are not only at the regulatory level but also relate to how these legal provisions are implemented in the field by law enforcement officials. From a normative perspective, the study examines various laws, doctrines, and legal principles that form the basis for case resolution, including provisions regarding investigators' authority, the principle of restorative justice, and regulations on conflict resolution mechanisms within the criminal justice system. The normative analysis also aims to assess the conformity of investigators' actions with applicable positive legal provisions.

Meanwhile, from an empirical perspective, the study examines facts on the ground through interviews, observations, and analysis of case documents. Empirical research focuses on the behavior of law enforcement officials, community responses, social dynamics, and practical obstacles to implementing legal provisions. Through this approach, the research can demonstrate whether legal regulations have been implemented effectively, consistently, and in accordance with their stated purpose.

By combining these two approaches, normative-empirical legal research allows researchers to identify the gap between ideal law (*das sollen*) and the law in practice (*das sein*), while also providing a comprehensive overview of the effectiveness of the application of legal norms in actual social contexts. This mixed approach is particularly relevant for examining legal issues that require both theoretical and practical understanding.

This research uses the Statute Approach. This approach is used to examine various legal provisions governing the research topic. Researchers examine

relevant laws and regulations, including statutes, government regulations, and other implementing regulations. This approach is crucial for understanding how positive law regulates the research object and the applicable limitations, authorities, and procedures. Articles 54, 103, and 127 of the Narcotics Law, which regulate the rights and obligations of rehabilitation for addicts and abusers, are analyzed. Conceptual Approach: This approach is used to understand the legal concepts that form the basis of the analysis, such as the concepts of inquiry, investigation, evidence, and criminal responsibility. Through this approach, researchers use legal theories from experts as a basis for building arguments. Analyzing the concept of Restorative Justice as the basis for placing rehabilitation and the concept of Therapeutic Justice. Case Approach. The case approach is used to examine court decisions or concrete cases related to the research object. Through this approach, researchers can see how the law is applied in practice, the judge's reasoning patterns, and the development of legal interpretations by law enforcement officials. Criminological Approach. The criminological approach is used to understand the behavior of children in conflict with the law from a criminological perspective. This approach not only views crime as an unlawful act but also explores the causal factors why children commit crimes, both internal and external factors. Through a criminological approach, the study examines the influence of the family environment, peer relationships, group pressure, socio-economic conditions, and the psychological aspects of children that contribute to the occurrence of crime. Examining the effectiveness of rehabilitation in reducing recidivism rates compared to imprisonment.

Using the normative juridical method, this research utilizes legal materials:

1. Primary Data: In-depth interviews with:

- a. Members of the Integrated Assessment Team (TAT) from the National Narcotics Agency (BNN)/Ministry of Health.
- b. Judges/Prosecutors with experience handling drug abuse cases.
- c. Correctional Center (BAPAS) staff and rehabilitation center managers.

2. Secondary Data: Primary Legal Materials (Narcotics Law, SEMA), Secondary Legal Materials (books, scientific journals), and statistical data from the BNN regarding recidivism.

In addition, tertiary legal materials such as legal dictionaries, encyclopedias, and regulatory indexes were used to clarify concepts and terms.

To process and interpret the data obtained, this research employed descriptive analytical analysis techniques. This technique systematically describes legal facts, investigative phenomena, and the mechanisms of technology use, then connects them to applicable legal theories and norms. Descriptive analysis provides an objective overview of investigative practices, while analytical analysis serves to test their compliance with relevant legal principles, regulations, and doctrine.

By utilizing a conceptual approach, a case-based approach, and analytical descriptive analysis techniques in an integrated manner, this research is expected to yield a comprehensive understanding of how technology is applied in

investigations and inquiries, as well as the extent to which this use of technology aligns with the Indonesian legal system and can strengthen the evidentiary process in criminal cases.

RESEARCH RESULT

A. Compliance of Judges and the Integrated Assessment Team (TAT) in Implementing Article 103 and Article 127 of the Narcotics Law

Based on the results of the study, the implementation of Articles 103 and 127 of Law Number 35 of 2009 concerning Narcotics has essentially provided sufficient legal space for judges to place drug addicts and victims of drug abuse in medical and social rehabilitation institutions. Article 127 stipulates the status of drug abusers as legal subjects subject to rehabilitation, while Article 103 authorizes judges to determine rehabilitation as a more appropriate form of treatment than imprisonment.

However, in practice, the level of compliance of law enforcement officials, particularly judges and the Integrated Assessment Team (TAT), remains inconsistent. In many cases, assessments recommending rehabilitation do not always result in a rehabilitation decision, as judges still consider other factors such as the amount of evidence, history of use, alleged involvement in trafficking, and the prosecutor's indictment. As a result, many drug users who are substantial drug addicts or victims of drug abuse are still sentenced to prison.

From a normative compliance perspective, this situation indicates that the implementation of Articles 103 and 127 still faces issues of harmonization between assessment results, indictment construction, and judicial considerations. In this context, the TAT (Rehabilitation Assessment) plays a crucial role as an initial filter to distinguish between users, addicts, and dealers, but its recommendations are not always the dominant basis for court decisions. Therefore, it can be concluded that compliance with rehabilitation norms remains partial and has not been fully institutionalized uniformly in drug criminal justice practices.

B. Effectiveness of Rehabilitation Programs as an Alternative to Criminal Sentences in Reducing Recidivism

Based on the discussion, medical and social rehabilitation are, in principle, more effective than imprisonment in treating drug users, particularly in terms of recovering from dependency and preventing recurrence of criminal offenses (recidivism). This is because rehabilitation focuses not only on stopping substance use but also on the comprehensive biological, psychological, and social recovery of users.

Criminologically, drug users placed in rehabilitation institutions have a greater chance of escaping the cycle of dependency than those placed directly in correctional institutions. Rehabilitation programs provide medical therapy, psychological counseling, social guidance, and behavioral supervision that are more tailored to the characteristics of addicts. Conversely, prisons are often

counterproductive, increasing the likelihood of users interacting with new criminal networks and experiencing greater social stigma upon release.

However, the effectiveness of rehabilitation is still greatly influenced by the quality of program implementation. Successful rehabilitation requires more than formal placement in a rehabilitation center; it must also be accompanied by accurate assessments, ongoing therapy programs, family support, and aftercare mechanisms. Without these, the risk of relapse and re-abuse remains high. Therefore, it can be asserted that rehabilitation is fundamentally more effective as an alternative to criminal punishment, but its effectiveness is highly dependent on the quality of the implementation system.

C. Legal, Structural, and Criminological Obstacles and Problem-Solving Strategies

The effectiveness of rehabilitation as an alternative to criminal punishment in drug cases still faces various obstacles that can be grouped into three aspects: legal, structural, and criminological.

From a legal perspective, the main obstacle lies in the persistence of multiple interpretations in distinguishing between addicts, abusers, and dealers. In practice, users who should qualify for rehabilitation are often still charged with possession or possession of narcotics, thus limiting opportunities for rehabilitation. Furthermore, the lack of uniformity in the application of assessment results also leads to disparities in verdicts between regions and between law enforcement agencies.

From a structural perspective, obstacles arise from the limited number of rehabilitation institutions, professional staff, medical and psychosocial facilities, and suboptimal coordination between the police, prosecutors, courts, the National Narcotics Agency (BNN), and rehabilitation institutions. As a result, rehabilitation is often positioned as merely an additional option, rather than the mainstay of drug user management.

Meanwhile, from a criminological perspective, one of the biggest obstacles to effective rehabilitation for drug abusers is the persistent social stigma that holds addicts as "criminals" deserving of imprisonment. In the general public's view, drug users are often positioned solely as lawbreakers, ignoring the fact that in many cases they are also victims of addiction requiring medical and social treatment. This perspective often leads to rehabilitation being perceived as a form of "leniency" or even "legal indulgence," rather than a legitimate and necessary tool for recovery.

This stigma not only persists within society but can also influence the perspectives of law enforcement officials, families, and even the addict's immediate social circle. In practice, officials who still view users as purely criminals tend to prefer a repressive approach of detention and imprisonment, rather than encouraging assessment and rehabilitation. As a result, opportunities for users to receive treatment appropriate to their addiction become increasingly limited. Furthermore, families, feeling ashamed or afraid of social stigma, are often reluctant to take their family members to rehabilitation facilities, fearing

that they will be deemed a failure to educate or labeled as a "problematic" family. This situation exacerbates delays in treatment and increases the risk of worsening dependency.

From a criminological perspective, social stigma has a very serious impact on the desistance process, which is the process by which someone stops deviant behavior or criminal activity. A former drug user who has undergone or is undergoing rehabilitation requires community support to return to social functioning. However, when society continues to view them as dangerous and untrustworthy "ex-addicts" or "ex-drug convicts," the social reintegration process is hampered. Individuals who experience social rejection tend to experience psychological distress, loss of self-confidence, difficulty finding employment, and feel alienated from their community. In such circumstances, the likelihood of relapse or even falling into further criminal activity increases.

Furthermore, social stigma also impacts the long-term effectiveness of rehabilitation. Rehabilitation does not stop with detoxification or therapy in an institution; it must continue with a post-rehabilitation phase that emphasizes the restoration of social, economic, and psychological functioning. If after leaving a rehabilitation institution, an individual continues to face discrimination, rejection, and ostracism, the rehabilitation results may be less than optimal. In other words, the success of rehabilitation is not only determined by the quality of medical and social programs within the institution, but is also greatly influenced by social acceptance after the individual returns to society.

The recommended problem-solving strategies are: (1) strengthening the synchronization of the implementation of Article 103 and Article 127 of the Narcotics Law through stricter technical guidelines; (2) making the results of the TAT the main consideration in the judicial process; (3) expanding the capacity of medical and social rehabilitation institutions; (4) improving the competence of law enforcement officers in distinguishing between users and dealers; and (5) developing a family- and community-based rehabilitation approach so that the social reintegration process runs more effectively. Thus, the effectiveness of rehabilitation can only be achieved if it is supported by improvements to norms, institutions, and the paradigm of law enforcement simultaneously.

CONCLUSION AND RECOMMENDATION

A. Conclusion

Based on the research results and discussion, it can be concluded that rehabilitation as an alternative to criminal punishment in narcotics cases has a clear legal basis in Law Number 35 of 2009 concerning Narcotics, specifically through Articles 103 and 127. Rehabilitation is a more appropriate form of treatment for drug addicts and victims of drug abuse because it focuses on recovery, not solely on punishment. However, in practice, rehabilitation has not been optimal due to inconsistent implementation by law enforcement officials, limited facilities, and the persistent stigma against drug users. Therefore, the effectiveness of rehabilitation depends heavily on legal compliance, the quality

of program implementation, and the support of a more humane criminal justice system.

B. Recommendations

It is recommended that law enforcement officials, particularly judges and the Integrated Assessment Team (TAT), be more consistent in implementing rehabilitation provisions for drug addicts and victims of drug abuse as mandated by law. Furthermore, the government needs to increase the number and quality of rehabilitation institutions and strengthen inter-institutional coordination so that rehabilitation can be implemented effectively. In addition, a paradigm shift is needed in society and law enforcement so that drug users are seen as individuals who need to be rehabilitated, not simply imprisoned..

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