

Rehabilitation of Narcotics Addicts as an Alternative to Criminal Sentencing From the Perspective of Law Number 35 of 2009 and Efforts to Overcome Overcrowding in Correctional Institutions in Indonesia

Joni Sasmito¹
Balikpapan University

Shandy Anindra²
Balikpapan University

Correspondence Author : Joni Sasmito (joni.sasmito@uniba-bpn.ac.id)

Abstract

Drug abuse is a complex issue that not only relates to public health but also has broad implications for the criminal justice system, particularly in the management of correctional institutions. In Indonesia, the high rate of arrests and imprisonment for narcotics-related offenses, including drug users and addicts, has resulted in severe prison overcrowding. This condition is exacerbated by law enforcement practices that still prioritize imprisonment, despite Law Number 35 of 2009 on Narcotics explicitly mandating medical and social rehabilitation for drug addicts and victims of drug abuse. This article examines the policy of rehabilitating drug addicts as an alternative to criminal sentencing and its relevance in addressing prison overcrowding. The research employs a normative juridical method using statutory, conceptual, and historical approaches. The findings reveal a significant gap between normative regulation and practical implementation, causing rehabilitation to be underutilized. Strengthening rehabilitation policies is therefore essential to achieve a more just, humane, and public-safety-oriented criminal justice system.

Keywords: drug rehabilitation; drug abuse; criminal sentencing; prison overcrowding

Introduction

Drug abuse is a multidimensional problem that remains a serious challenge for nearly every country in the world, including Indonesia. This issue is not only related to public health but also has broad implications for social order, economic stability, and national security and order. In practice, drug abuse is often understood and handled as a criminal law issue, resulting in state responses primarily through repressive approaches such as arrest, prosecution, and imprisonment.

This criminalization approach is fundamentally based on the goal of providing a deterrent effect and protecting society from the dangers of drugs. However, in the context of drug abusers and addicts, an approach that places too much emphasis on imprisonment actually creates new

problems. Drug addicts are essentially individuals experiencing substance dependence and are in a state of illness, requiring ongoing medical care and social rehabilitation, not simply punishment.

The principle of *salus populi suprema lex esto*, meaning that the safety of the people is the supreme law, should be the philosophical basis for formulating and implementing drug countermeasures. Within this framework, the true crime of drug trafficking is organized, profit-driven illicit drug trafficking, while drug abusers and addicts are more accurately positioned as victims of the drug trafficking system itself. Therefore, treatment of drug abusers should prioritize health and social approaches.

In the Indonesian context, the implementation of criminalization policies for drug abusers has had a direct impact on the increasing prison population. Data shows that the occupancy rate of state prisons and detention centers has significantly exceeded ideal capacity, even reaching a state of chronic overcrowding. The majority of correctional inmates are convicted of drug offenses, and a significant proportion are drug abusers or addicts. This overcrowding not only reduces the quality of inmate development but also creates various other problems such as human rights violations, increased risks of health problems, security disturbances, and an increased burden on the state budget.

Based on these conditions, the rehabilitation policy for drug addicts, as stipulated in Law Number 35 of 2009 concerning Narcotics, is highly relevant and warrants in-depth study. This law provides a clear legal basis for the implementation of medical and social rehabilitation as mandatory for drug addicts. However, in law enforcement practice, these provisions have not been fully implemented optimally. Therefore, a comprehensive academic study is needed to analyze drug addict rehabilitation as an alternative to criminal punishment and its role in addressing the problem of overcrowding in correctional institutions in Indonesia.

1. How is rehabilitation for drug addicts regulated in Law Number 35 of 2009?

2. How is the rehabilitation policy for drug addicts implemented in the Indonesian criminal justice system ?
3. What is the role of drug addict rehabilitation as an alternative to sentencing in addressing correctional overcrowding?

Methods

The type of research used in this article is normative juridical legal research with a descriptive-analytical nature. Normative juridical research was chosen because the study focuses on analyzing legal norms contained in laws and regulations and legal doctrines relevant to the issues of drug addict rehabilitation and correctional overcrowding. The approaches used include a statutory approach, a conceptual approach, and a historical approach to understand the development of drug law policy in Indonesia.

The primary legal materials used include Law Number 35 of 2009 concerning Narcotics, a Supreme Court Circular Letter, and joint regulations regarding the implementation of drug addict rehabilitation. Secondary legal materials were obtained from criminal law textbooks, scientific journals, reports from national and international institutions such as the UNODC, and relevant previous research findings. All legal materials were analyzed qualitatively using legal interpretation and legal argumentation methods to draw systematic and comprehensive conclusions.

Results and Discussion

This study aims to provide a comprehensive understanding of drug addict rehabilitation policies within the Indonesian legal system. Specifically, it analyzes the legal provisions for rehabilitation in Law Number 35 of 2009, examines its implementation in law enforcement practice, and explains the urgency of rehabilitation as an alternative to criminal punishment in order to reduce the problem of overcrowding in correctional institutions.

Punishment theory is an important conceptual foundation for understanding the goals and direction of punishment policy in the criminal law system. In general, punishment theories are divided into absolute (retaliatory) theories, relative (deterrent) theories, and combined theories. Absolute theories view punishment as a form of retribution for unlawful acts, while relative theories emphasize punishment as a means to prevent crime, either through general deterrence or specific deterrence. In the context of drug abuse, the rigid application of punishment theory through imprisonment often fails to effectively achieve the goal of prevention. This is due to the nature of drug crimes, which are closely related to substance dependence. Therefore, modern approaches to punishment tend to adopt combined theories that integrate elements of guidance and rehabilitation as part of the goal of punishment.

The public health approach views drug abuse as a health problem requiring medical and social intervention. From a human rights perspective, drug addicts have the right to health services and humane treatment. Imprisoning drug addicts without adequate rehabilitation potentially violates the right to health and the right to be free from inhumane treatment.

This approach aligns with the principle of *salus populi suprema lex esto*, which states that legal policy should be directed toward protecting the safety and welfare of the wider community. Therefore, rehabilitation of drug addicts is not only a legal obligation but also a moral and constitutional imperative.

Regulations on the Rehabilitation of Narcotics Addicts in Law Number 35 of 2009

Law Number 35 of 2009 concerning Narcotics places rehabilitation as a key instrument in Indonesia's drug control policy. This is explicitly reflected in Article 54, which states that drug addicts and victims of drug abuse are required to undergo medical and social rehabilitation. This provision demonstrates a paradigm shift from prisons to a rehabilitative approach oriented toward individual recovery.

In addition to Article 54, provisions regarding rehabilitation are also found in Article 103, which authorizes judges to decide or determine rehabilitation for drug addicts, whether found guilty or not guilty of a crime. This regulation emphasizes that rehabilitation is not merely a form of sentence reduction but rather a stand-alone legal mechanism that is mandatory for addicts. Normatively, the rehabilitation provisions in Law Number 35 of 2009 are reinforced by various derivative policies, such as a Circular from the Supreme Court and joint regulations between law enforcement agencies (the National Police, the Prosecutor's Office, the National Narcotics Agency (BNN), and the Ministry of Health). This legal framework essentially provides an adequate basis for the implementation of rehabilitation as an alternative to criminal punishment. However, this normative power has not been fully reflected in law enforcement practices.

Implementation of Rehabilitation Policy in Practice

Although rehabilitation regulations have been clearly defined, their implementation in law enforcement practice still faces various obstacles. Differences in perceptions among law enforcement officials regarding the qualifications of drug abusers and addicts often lead to inconsistent rehabilitation implementation. Furthermore, limited rehabilitation facilities and the social stigma surrounding drug addicts also contribute to obstacles.

Due to these obstacles, imprisonment remains the primary option for handling drug abuse cases. This practice not only contradicts the spirit of the law but also significantly contributes to the increasing prison population.

Rehabilitation as an Alternative to Criminalization and a Solution to Overcrowding

Prison overcrowding is a serious problem that impacts various aspects of national life. Prison conditions exceeding ideal capacity have the potential to lead to human rights violations, reduce the quality of inmate development, and increase the risk of security and health problems.

In this context, drug rehabilitation as an alternative to criminal punishment plays a very strategic role. A rehabilitative approach is not only more effective in reducing recidivism rates but also aligns with the principles of protecting human rights and public safety. Furthermore, rehabilitation can reduce the burden on prisons and divert state resources toward prevention and rehabilitation.

Analysis

An analysis of drug addict rehabilitation as an alternative to criminal punishment reveals a fundamental problem in the Indonesian criminal justice system: an imbalance between normative and implementative approaches. Normatively, Law Number 35 of 2009 has established rehabilitation as a legal obligation for drug addicts. However, in practice, the criminal justice system still orients itself toward the paradigm of imprisonment as the primary response to drug crimes.

This gap is inextricably linked to the nature of the criminal justice system, which still tends to position imprisonment as a symbol of firm law enforcement. Law enforcement officials often view rehabilitation as a form of lenient treatment that has the potential to reduce the deterrent effect. However, in the context of drug addicts, the deterrent effect of imprisonment is ineffective because it fails to address the root cause of the problem, namely substance dependence.

From a criminal theory perspective, this situation demonstrates the dominance of partial absolute and relative theories, without the full application of the combined theory. Rehabilitation, as part of the combined theory, should be positioned as a means of development and recovery, not merely an additional alternative. Therefore, rehabilitation needs to be understood as a form of punishment oriented toward improving the offender while simultaneously protecting society.

Conclusion

Based on the discussion, it can be concluded that Law Number 35 of 2009 explicitly stipulates the rehabilitation of drug addicts as a legal obligation. However, the implementation of this policy in practice remains suboptimal, resulting in the continued dominance of prison sentences for drug abusers and contributing to the problem of correctional overcrowding. Therefore, rehabilitation as an alternative to punishment needs to be strengthened and optimized to create a more just and public safety-oriented criminal justice system.

A stronger commitment from the government and law enforcement officials is needed to optimize the implementation of rehabilitation for drug addicts in accordance with the mandate of the law. Furthermore, improving rehabilitation facilities, strengthening inter-agency coordination, and shifting the paradigm in handling drug abuse are crucial steps to reduce overcrowding in correctional institutions.

References

- Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika.
- United Nations Office on Drugs and Crime (UNODC). Handbook on Strategies to Reduce Overcrowding in Prisons. Vienna: UNODC; 2013.
- United Nations Office on Drugs and Crime (UNODC). Treatment and Care for People with Drug Use Disorders in Contact with the Criminal Justice System. 2019.
- Institute for Criminal Justice Reform. Strategies to Reduce Overcrowding in Indonesia. Jakarta: ICJR; 2018.
- World Prison Brief. World Prison Brief Data: Indonesia. 2022.
- Ahli : *penyalahguna dan pecandu narkoba dijamin direhabilitasi* — wawancara ahli yang menjelaskan bahwa UU 35/2009 menjamin rehabilitasi pengguna dan pecandu narkoba.
https://www.antaranews.com/berita/1011590/ahli-penyalahguna-dan-pecandu-narkoba-dijamin-direhabilitasi?utm_.