

The Concept of Rehabilitation Law for Military Personnel Who Commit Narcotics Crimes in the Perspective of Legal Certainty

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ABSTRACT

This study examines the provision of rehabilitation for TNI members involved in narcotics abuse, with an emphasis on a theoretical framework that includes aspects of law, criminality, rehabilitation, and human rights (HAM). Rehabilitation is recognized as a right for narcotics addicts in accordance with Law No. 35 of 2009, which emphasizes the importance of restoring health without neglecting legal responsibility. However, in practice, TNI members are often faced with dismissal sanctions without being given the opportunity to undergo rehabilitation, which creates injustice. This study uses normative juridical methods to analyze existing regulations and challenges in the implementation of rehabilitation. The results of the study show the need for harmonization between civil and military law, the establishment of special rehabilitation centers, and the strengthening of internal TNI regulations. With a holistic approach, it is hoped that rehabilitation can be an effective solution in dealing with narcotics abuse among the military, as well as strengthening the integrity of the TNI as a just institution. In addition, this study aims to analyze the setting, application, and ideal concept of rehabilitation for the military involved in narcotics crimes. Despite the laws governing rehabilitation, its implementation among the military still faces various challenges. With a qualitative approach, this research delves deeper into existing issues. The results show that although rehabilitation aims to restore the rights and dignity of soldiers, its implementation is often hampered by complex internal and external factors.

Keywords: military rehabilitation law, narcotics crimes, legal certainty

INTRODUCTION

Research on the provision of rehabilitation for TNI members who abuse narcotics requires a theoretical framework that includes basic concepts of law, criminalization, rehabilitation, and human rights (HAM). Theoretically, Rehabilitation, in the context of narcotics abuse, refers to the process of physical, mental, and social recovery for individuals who experience narcotic dependence or abuse. Rehabilitation aims to restore the individual's function to society productively, helping them to eliminate their dependence on narcotics, as well as restoring their physical and mental health (Junaedi et al., 2023).

Based on Law Number 35 of 2009 concerning Narcotics, rehabilitation can be divided into two types, namely: 1) Medical rehabilitation, which focuses on the physical and mental recovery of victims of narcotics abuse through treatment and therapy. 2) Social rehabilitation, which aims to restore the role of individuals in society by overcoming the social impact caused by narcotics abuse (MY & Zabir, 2023).

Basically, rehabilitation is seen as an alternative sanction to criminal punishment, especially for those who are considered victims of narcotics abuse, who are not solely punished, but are given the opportunity to recover and function normally in society (Abdullah & Hafizi, 2021);(Pahlevi, 2020). Meanwhile, the TNI is a state military institution that has a major role in maintaining state sovereignty and maintaining national security. As part of the state apparatus, TNI members have an obligation to comply with high discipline and ethics (Abdullah & Lala, 2020).

Strict discipline in the TNI sometimes poses a challenge when TNI members are involved in narcotics abuse, because this not only violates the general law but also violates military discipline regulated in the Military Criminal Code (KUHPM). However, although TNI members can be subject to disciplinary sanctions for these violations, they also have the right to rehabilitation, especially if they are considered victims of narcotics abuse (Majid, 2020).

Based on Law Number 35 of 2009, TNI members who are involved in narcotics abuse must be treated according to the principles of rehabilitation, both medical and social, even though they are bound by military law. This raises the need for harmonization between military law and the principle of human rights (HAM) which recognizes rehabilitation as a right for individuals caught up in narcotics abuse, This framework explains the philosophical, juridical, and sociological basis for law enforcement against military members involved in narcotics abuse.

The philosophical basis is related to the concept of justice and the purpose of law. The philosophy of justice according to Aristotle, which states that "justice is to give everyone what is his right", is an important basis in discussing the rights of TNI members involved in narcotics abuse. In this context, rehabilitation is not only considered as an alternative punishment, but as a right that every individual has to be rehabilitated, especially TNI members who experience drug dependence as a result of various external and internal factors. Legal certainty is one of the basic principles in law that guarantees that every legal action can be predicted and carried out based on clear and consistent norms (Simamora, 2017).

Legal certainty provides a basis for upholding fair and equal justice for all parties involved, including TNI members involved in narcotics abuse. The juridical basis in this framework refers to the laws and regulations that regulate narcotics and criminalization for narcotics abusers, especially in the military environment (Nurmalita & Megawati, 2022). Law Number 35 of 2009 concerning Narcotics is a legal umbrella that states that narcotics abusers, referred to as victims, are entitled to medical and social rehabilitation. This is stated in Article 54 and Article 103 which provide a legal basis for the provision of rehabilitation to narcotics addicts as a form of recovery, while the sociological basis examines the social impact of narcotics abuse, as well as rehabilitation approaches that can encourage the social reintegration of TNI members into community life.

Drug abuse in military settings is often influenced by a variety of social factors, such as heavy-duty pressure, mental tension, personal problems, or a lack of social support in the internal environment. Therefore, a holistic and rehabilitation-based approach based on physical, mental, and social recovery is highly relevant to address narcotics abuse. In this case, the provision of rehabilitation is not only beneficial for individuals involved in narcotics, but also for the TNI institution as a whole. Successful rehabilitation will help reduce the social stigma against TNI members who are involved in narcotics, as well as allow them to return to productive functions in their military duties and social life.

It is important to consider environmental factors that affect narcotics abuse, such as domestic chaos, social problems in the community, or low levels of confidence among TNI members. Therefore, rehabilitation must include an approach that not only touches on the medical aspect, but also the psychological and social aspects, to ensure that TNI members involved in narcotics abuse can be fully integrated into the community. However, although the Narcotics Law recognizes rehabilitation, in the military environment, Law Number 34 of 2004 concerning the Indonesian National Army (TNI) prioritizes discipline and sanctions, including dismissal for TNI members involved in narcotics abuse. This shows a discrepancy between the regulations governing rehabilitation in the health sector and the military discipline regulations that emphasize dismissal sanctions.

Regulation of the Minister of Defense of the Republic of Indonesia Number 18 of 2019 which regulates the prevention and eradication of narcotics abuse within the TNI also shows the need to deal with this problem more seriously, but has not fully provided enough space for the implementation of rehabilitation in the military legal system.

According to Aristotle, justice is to give everyone what is his right. In this context, TNI members who are victims of narcotics abuse have the right to receive rehabilitation to restore their health, without neglecting legal responsibility. The provision of rehabilitation as an alternative sanction reflects corrective justice, which aims to improve the condition of individuals and return them to society productively, and in Penal in modern criminal law aims to achieve justice, protection of society, and the development of actors. Law No. 35 of 2009 on Narcotics recognizes narcotics abusers as victims who need rehabilitation through rehabilitation.

In the context of TNI members, criminalization must still pay attention to military discipline, as stipulated in the Criminal Code and internal TNI regulations. Rehabilitation is an effort to recover physically, mentally, and socially for victims of narcotics abuse, so that they can return to normal function in society, in the theory of Herbert L. Packer and Marvin E. Wolfgang. Which emphasizes that the main principle of criminalization is to improve offenders so that they can return to being good members of society.

In the context of narcotics, abusers are considered victims who need rehabilitation, not just perpetrators who must be punished. Rehabilitation aims to: 1) Restore physical and mental health. 2) Eliminate dependence on narcotics. 3) Return individuals to productive social life. Rehabilitation is expressly regulated in: 1) Article 54 of Law No. 35 of 2009 concerning Narcotics, which states that addicts and victims of narcotics abuse are obliged to undergo medical and social rehabilitation. 2) Article 103 of Law No. 35 of 2009, which gives the authority to judges to order addicts to undergo rehabilitation as part of a court decision

Military law as *lex specialis* must not ignore the principles of human rights. TNI members who are victims of narcotics abuse still have human rights, including the right to health restoration and non-discriminatory treatment. Harmonization between military law and human rights can be realized through: 1) Harmonization between the Narcotics Law and the Criminal Code. 2) Provision of special rehabilitation facilities for TNI members involved in narcotics abuse. 3) Strengthening TNI internal regulations that support a rehabilitative approach, without ignoring the principles of military discipline.

Law Number 35 of 2009 concerning Narcotics has regulated in detail various aspects related to the handling of narcotics. This policy introduces a new paradigm in dealing with victims of drug abuse, where users or addicts are no longer legally processed as perpetrators of criminal acts, but are directed directly to rehabilitation centers to get

recovery because in the military environment, there is no recognition of narcotics rehabilitation, both medical rehabilitation and social rehabilitation for TNI members.

In the problem of this research, namely how to implement rehabilitation for TNI members as narcotics abusers in Military Courts and how to construct laws on rehabilitation for narcotics abusers in Criminal Verdicts in the Military Environment, Narcotics abuse among the military is a serious issue that affects the integrity and discipline of the TNI. Data from the National Narcotics Agency (BNN) shows an increase in the number of narcotics abusers, including in the military environment. In an effort to deal with this, rehabilitation as an alternative to prison sentences is expected to rehabilitate soldiers involved in narcotics abuse.

Its implementation is still not optimal, especially due to the lack of specific regulations and obstacles in its implementation in the military environment, the explanation of Article 103 paragraph (1) of Law Number 35 of 2009 concerning Narcotics states that the provision of rehabilitation through the general court is a right for perpetrators of abuse or addicts of narcotics. However, within the Military Court, every TNI member involved in narcotics abuse is required to be dismissed from the TNI unit. This provision is supported by the Regulation of the Minister of Defense of the Republic of Indonesia Number 18 of 2019 concerning the Prevention and Eradication of Abuse and Illicit Circulation of Narcotics, Psychotropics, and Other Addictive Materials within the Ministry of Defense and the Indonesian National Army. Article 64 of Law Number 34 of 2004 concerning the TNI states that "Military law is fostered and developed by the government for the purpose of implementing state defense." The explanation of this article explains that military law includes all national laws and regulations whose legal subjects are military members or individuals who are equated with the military in accordance with the provisions of the applicable laws and regulations

Legal certainty is one of the basic principles in the legal system that guarantees that every legal action must have a clear and predictable basis, with the aim of providing a sense of justice for the community and the individuals involved. In the context of narcotics rehabilitation, this theory of legal certainty is very relevant, especially when the law views rehabilitation as an alternative to punishment for narcotics abusers. The following is an explanation of the theory of legal certainty related to narcotics rehabilitation; Rehabilitation in cases of narcotics abuse can be considered a more humane form of punishment compared to imprisonment. In this context, the implementation of rehabilitation must be carried out with a clear legal basis in order to create legal certainty for perpetrators of narcotics abuse, especially members of the TNI.

Clear Legal Basis for Rehabilitation: a) Law No. 35 of 2009 on Narcotics, especially Articles 54 and 103, provides a clear legal basis for the provision of rehabilitation. This article ensures that drug addicts or abusers can get medical and social rehabilitation, not just prison sentences. b) Law No. 34 of 2004 concerning the TNI and Regulation of the Minister of Defense No. 18 of 2019 regulate the provision of sanctions for TNI members involved in narcotics abuse, and provide a legal basis for rehabilitation within the TNI.

Narcotics abusers (including members of the Indonesian Armed Forces) have the right to rehabilitation, and this provides legal certainty that they will not only face a prison sentence, but can also get a chance for recovery. Legal certainty also concerns clear procedures in the implementation of rehabilitation. In this case, the rehabilitation process must be carried out in accordance with the procedures regulated in the law, starting from the identification of the status of the abuser, the determination of the type of rehabilitation needed, to the implementation of the rehabilitation itself. The clarity of

this procedure will provide a sense of justice for the perpetrators undergoing rehabilitation and minimize the potential for abuse of authority.

Article 103 of Law No. 35 of 2009 gives the authority to judges to decide on the provision of rehabilitation to perpetrators of narcotics abuse, which is a preventive and corrective step. Thus, judges are expected to be able to make decisions based on clear laws, and there is no uncertainty in the legal process applied to the perpetrators.

The formulation of this study is: how to regulate rehabilitation laws for TNI soldiers who commit narcotics crimes in accordance with the principle of legal certainty; What are the obstacles that arise in the implementation of rehabilitation for military soldiers involved in narcotics crimes; How to formulate the ideal rehabilitation concept that can be applied effectively within the scope of military law and reflect legal certainty. This study aims to review the various mechanisms of the rehabilitation system implemented among the military, as well as identify patterns of rehabilitation application in court decisions. The results of this study are expected to provide recommendations to formulate more effective and sustainable rehabilitation policies in the future.

METHOD

This study uses a normative juridical method, namely legal research that focuses on the study of laws and regulations, legal doctrines, and human rights principles that are relevant to rehabilitation for TNI members involved in narcotics abuse. The approaches used include: 1) Statute Approach: Examines the legal rules that govern the rehabilitation of narcotics addicts and the legal rules that apply in the TNI environment. 2) Conceptual Approach: Exploring the basic concept of rehabilitation as a human right and how this is implemented in the context of military law.

This research employs a normative juridical method, which is primarily focused on the study of legal norms, statutory regulations, and legal doctrines related to the rehabilitation of military personnel involved in narcotics abuse. This method is chosen because it allows for an in-depth analysis of existing legal frameworks governing rehabilitation in Indonesia, including Law No. 35 of 2009 on Narcotics, Law No. 31 of 1997 on Military Courts, and Law No. 34 of 2004 on the Indonesian National Armed Forces (TNI). Furthermore, this study examines the harmonization between civil and military laws, particularly in relation to the principles of legal certainty and human rights. By analyzing primary legal sources and secondary references, this research aims to provide a comprehensive understanding of the gaps and inconsistencies within the existing legal framework.

To complement the normative juridical method, this study adopts a statutory approach, a conceptual approach, and a comparative legal approach. The statutory approach focuses on the examination of legal provisions governing rehabilitation and their application within both civilian and military judicial systems. Meanwhile, the conceptual approach delves into the fundamental principles of rehabilitation as a form of legal protection for individuals categorized as victims of narcotics abuse. The comparative legal approach is employed to assess how other countries implement rehabilitation policies for military personnel involved in narcotics abuse, providing a broader perspective for improving Indonesia's legal framework.

The data collection process in this study is based on document analysis, which involves reviewing legislation, court decisions, military regulations, academic research, and reports from relevant institutions such as the National Narcotics Agency (BNN) and the Ministry of Defense. Legal documents are systematically analyzed to identify patterns

in judicial decisions regarding military personnel convicted of narcotics abuse, particularly in military courts. In addition, this study examines legal precedents to determine the extent to which judges have exercised their authority under Article 103 of Law No. 35 of 2009, which allows for rehabilitation as an alternative to imprisonment.

The data obtained from legal documents and academic sources are then subjected to qualitative legal analysis, using deductive and inductive reasoning to construct arguments regarding the necessity of integrating rehabilitation within the military justice system. By comparing the principles of legal certainty, justice, and proportionality, this study seeks to propose a legal reform that ensures fair treatment for TNI personnel while maintaining military discipline. The findings of this research are expected to contribute to the development of military law, particularly in relation to narcotics-related offenses, and to provide policy recommendations that balance legal enforcement with rehabilitative justice.

RESULTS AND DISCUSSION

Legal Framework and Contributing Factors in Narcotics Abuse Under Law Number 35 of 2009

The definition of narcotics is regulated in Law Number 35 of 2009 concerning Narcotics, which provides a clear definition and regulation of narcotics and their abuse. Article 1 Paragraph (1) of Law Number 35 of 2009 states that: "Narcotics are substances or drugs derived from plants or non-plants, which can cause a decrease or change in consciousness, loss of taste, and/or cause dependence."

Article 54 of Law Number 35 of 2009 also states that: narcotics abuse is the use of narcotics that are not in accordance with legal medical provisions, or the use of narcotics with the aim of obtaining intoxicating effects or damaging health. Narcotics in the medical world are used as pain relievers or anesthetics that can help patients during surgery or in medical treatment. However, the use of narcotics in this context is very limited and must be based on a doctor's prescription, with controlled doses, Narcotics are often used as anesthetics in medical procedures, such as before surgery or to reduce pain. However, in certain situations, narcotics can be abused to obtain intoxicating effects.

Article 54 of Law Number 35 of 2009 concerning Narcotics, narcotics abusers are considered victims if they accidentally fall into the use of narcotics due to persuasion, fraud, coercion, or threats. Sumarno Ma'sum identified three factors that cause narcotics abuse: first, ease of access to narcotics whose legal status is weak, which can lead to dependence and addiction; second, individual personality factors, such as lack of religious education, limited information about hard drugs, instability of physical and mental development, as well as social problems that affect self-confidence and self-identity search; Third, environmental factors, such as unstable household situations, lack of parental attention, unemployment, and weak legal sanctions.

Regulatory factors play a role in narcotics abuse, where uncertainty in regulation and law enforcement can create conflicts of interest in the application of punishment. Developments in jurisprudence and legal science, which try to follow the dynamics of society, also affect existing legislation, although this does not necessarily result in the elimination of narcotics-related crimes, as explained in Article 15 of Law Number 35 of 2009 which states that the use of narcotics without a permit or illegally is a criminal offense, In the context of narcotics rehabilitation for TNI members, The theory of Legal Elements or legal theories regarding the effectiveness of law has an important role.

The Law not only functions as a tool of coercion but also as a means to achieve justice and social good. In this case, narcotics rehabilitation should be seen as part of a criminal that is oriented towards individual improvement. Fakar states that in law enforcement, every action must be based on the principle of justice, which includes procedural justice, substantive justice, and distributive justice. Therefore, in handling TNI members involved in narcotics, not only the aspect of military discipline needs to be considered, but also the right of individuals to get rehabilitation. A rehabilitative approach should be accepted as a more humane alternative to punishment, which is in line with the principle of corrective justice, which is to improve the individual's circumstances without neglecting legal responsibility.

Justice in Legal Perspective: Fakar emphasizes that justice should be the ultimate goal of the legal system. He distinguishes three types of justice that are important in the legal system, namely: 1) Procedural justice: This justice is related to a legal process that is transparent, non-discriminatory, and open to all parties. The legal process should provide an equal opportunity for every individual to be heard and considered. 2) Substantial justice: Justice that focuses more on the material or outcome of a legal decision. Fakar argues that the law must pay attention to the principle of substantial justice, namely providing decisions that favor the righteous, reducing injustice, and supporting the continuation of a just life for individuals. 3) Distributive justice: This justice leads to a fair distribution in society, namely the distribution of rights and obligations in accordance with the needs and contributions of each individual. 4) Corrective Justice: Fakar also developed the idea of corrective justice, which focuses on correcting or correcting errors that occur in a social or legal system. In this context, he suggests that the law should provide opportunities for individuals who commit offenses to improve themselves, not just to be punished. In this case, rehabilitation can be part of the concept of corrective justice, which provides an opportunity for the perpetrator of the crime to return to society with personal and social improvement.

The theory of justice that emphasizes narcotics rehabilitation as the primary approach for victims of narcotics abuse more than punitive sanctions can be attributed to several philosophers and theories of justice, especially in the perspective of corrective justice and restorative justice. Some of the philosophers who are relevant to this approach include:

John Rawls (Theory of Justice as Social Justice): John Rawls was a political philosopher best known for his theory of justice, known as "the theory of justice as fairness". Although Rawls does not directly address narcotics rehabilitation, the principles contained in Rawls' theory can be applied in the context of rehabilitation. Rawls emphasized the importance of distributive justice, which is a fair distribution of rights and opportunities in society. In the context of narcotics, Rawls argues that individuals trapped in drug dependence should not be treated only as perpetrators of crimes, but rather as victims of unjust social conditions. In this case, rehabilitation is more of a priority than a punishment, as it provides an opportunity for the individual to improve in a more just society.

Herbert L. Packer (Criminal Theory and Rehabilitation), Herbert L. Packer is a well-known jurist whose theory distinguishes between two main models of criminal justice: the due process justice model and the criminal justice model. In the due process justice model, Packer emphasizes the importance of rehabilitation as the main goal of punishment, where rehabilitation is more focused on efforts to improve the behavior of criminals, including in cases of drug abuse. Packer argues that punishment that focuses

too much on punishment or revenge is ineffective in achieving social recovery, whereas rehabilitation gives the offender the opportunity to improve and return to society.

In terms of legal certainty related to rehabilitation for TNI members involved in narcotics abuse, there are several important points that need to be analyzed: 1) Differences in Treatment between General Courts and Military Courts; a) General Court: Based on Article 103 paragraph (1) of Law Number 35 of 2009 concerning Narcotics, rehabilitation is a right for perpetrators of abuse or addicts of narcotics, both in the process of investigation, prosecution, and in court. This shows that the law provides certainty that the addict is considered a victim in need of recovery. b) Military Courts: In the context of the TNI, members who are proven to have used narcotics not only face criminal charges, but are also dismissed from the unit. This refers to special rules such as the Regulation of the Minister of Defense of the Republic of Indonesia Number 18 of 2019 which emphasizes that TNI members involved in narcotics must be fired.

Analysis: From the aspect of legal certainty, there is firmness in the rules for TNI members involved in narcotics. However, this approach is more repressive (dismissal) than rehabilitative, so that the opportunity for recovery of TNI members through rehabilitation is limited or even non-existent.

Aspects of Legal Certainty and Discrimination, in the context of law, legal certainty means that the law must be applied fairly and consistently to all people indiscriminately. However, for TNI members, the applicable rules eliminate rehabilitation options and focus more on disciplinary sanctions, such as dismissal. This policy can be considered inconsistent with the principle of human rights (HAM), because TNI members who are narcotics addicts are not treated as victims who need rehabilitation, but are only given severe sanctions in the form of dismissal. This creates the impression of discrimination against military members compared to civilians. The link to discrimination emphasizes the aspect of "The Right to Fair and Non-Discriminatory Treatment."

Universal Human Rights Principle: Every individual, including members of the military, has the right to be treated fairly before the law without discrimination. This is stated in Article 7 of the Universal Declaration of Human Rights (DUHAM) and Article 28D paragraph (1) of the 1945 Constitution, which affirms that everyone has the right to equal treatment before the law. Problems in the TNI Context: TNI members involved in narcotics abuse are often not treated as victims in need of rehabilitation, but are immediately sentenced to dismissal. This is different from civilians, who can apply for rehabilitation according to Article 103 of the Narcotics Law. This difference in treatment can be considered as a form of discrimination, which is contrary to the principle of human rights equality.

Right to Health Rehabilitation: a) Human Rights Principles: Drug addicts are generally considered victims in need of rehabilitation. The right to health, including rehabilitation for addicts, is guaranteed in Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which has been ratified by Indonesia through Law No. 11 of 2005. b) Problems in the TNI Context: TNI members who become narcotics addicts are often not given the opportunity to undergo rehabilitation, but are immediately fired. This ignores their right to health rehabilitation as victims of narcotics abuse.

The Right to Rehabilitation as an Alternative to Punishment: a) Human Rights Approach in the Narcotics Law: Law No. 35 of 2009 recognizes that narcotics addicts are victims who need rehabilitation, both medical and social, to restore their health and prevent future abusive behavior. b) Problems in the TNI Context: In the military system,

narcotics abuse is more often considered a gross disciplinary violation than a health problem. Therefore, TNI members who are directly involved are subject to dismissal sanctions without considering rehabilitation options. This approach can be considered a violation of the human rights principle that prioritizes recovery for narcotics addicts.

The Right to Work and Life with Dignity: a) Human Rights Principles: Everyone has the right to work and a dignified life. The dismissal of TNI members due to narcotics abuse without providing opportunities for rehabilitation can be considered a violation of this right. Rehabilitation should be the first step to rehabilitate them so that they can contribute to society again, including in their profession. b) Problems in the TNI Context: Direct dismissal without rehabilitation options cuts off access to TNI members to work and live with dignity. This can worsen their social and economic conditions, as well as increase the risk of marginalization.

Balance between Military Discipline and Human Rights: a) TNI as a Special Institution: Military discipline does require stricter rules to maintain the authority and integrity of the country's defense. However, this approach must not ignore human rights principles, especially for TNI members who are victims of narcotics abuse. b) Solutions that Respect Human Rights: TNI members who are involved for the first time as narcotics addicts can be given rehabilitation as a recovery step. If after rehabilitation they continue to repeat offenses or engage as traffickers, then severe sanctions, including dismissal, may be imposed.

Non-Conformity of Regulations: Applicable legal arrangements, including the Narcotics Law and the Criminal Code, have not provided an adequate legal basis for the rehabilitation of military personnel. **Barriers to Implementation:** The study found that the lack of specialized rehabilitation facilities, social stigma, and low awareness in the military environment are the main factors hindering rehabilitation. **Rehabilitation Opportunities:** Despite significant challenges, there are opportunities to improve the rehabilitation system through the integration of medical and social rehabilitation programs with the military's internal mechanisms.

Legal arrangements for rehabilitation for TNI soldiers who commit narcotics crimes are regulated within the framework of national laws, namely Law Number 35 of 2009 concerning Narcotics which recognizes the right to rehabilitation for addicts or victims of narcotics abuse, and Law Number 31 of 1997 concerning Military Courts, which regulates the judicial mechanism for military soldiers. The principle of legal certainty is reflected through: 1) The separation of roles between users who are entitled to rehabilitation and dealers who still have to undergo criminal legal proceedings. 2) Strict and rule-based military judicial procedures, which ensure that cases are resolved based on evidence and review, including a medical assessment of the soldier's condition as an addict or victim of abuse. 3) Internal TNI regulations, such as the Circular Letter or Decree of the TNI Commander, which provide technical guidelines regarding the rehabilitation of soldiers while upholding military discipline without neglecting the right to rehabilitation. However, alignment between the civilian and military legal systems is needed to ensure legal certainty that not only punishes but also rehabilitates soldiers.

Obstacles that arise in the implementation of rehabilitation for military soldiers involved in narcotics crimes

The implementation of rehabilitation for military personnel faces various obstacles, including: 1) Overlapping legal regulations: Differences between the rules in the Narcotics Law and military law can result in uncertainty in determining the right

rehabilitation steps. 2) Institutional stigma: Narcotics cases among soldiers are often considered a disgrace to the institution, so there is often resistance to open rehabilitation efforts. 3) Limited rehabilitation facilities: The absence of specialized rehabilitation centers for the military makes soldiers have to undergo rehabilitation in public facilities that are not in accordance with military culture and values. 4) Lack of budget and human resources: Rehabilitation programs require special budget support as well as professionals who understand the characteristics of the military. 5) Lack of supervision and evaluation: The implementation of rehabilitation programs is often not accompanied by strict monitoring mechanisms, making it difficult to ensure its sustainability and success.

Ideal Concept for Rehabilitation

The formulation of the ideal rehabilitation concept should reflect the relevant principles of restorative justice, legal certainty, and militaristic approaches. This concept can be formulated through the following steps:

1. Harmonization of civil and military law
Align the Narcotics Law with military justice regulations to ensure rehabilitation can be implemented without conflict of rules. Drafting internal TNI regulations that explicitly regulate the rehabilitation mechanism while still prioritizing military discipline.
2. Establishment of a special rehabilitation center for the military
Establish rehabilitation facilities designed for soldiers with an approach that integrates medical therapy programs, psychological counseling, and military discipline and skills training. The center must be equipped with professionals who understand the physical, psychological, and moral needs of soldiers.
3. Implementation of an integrated evaluation system
Forming an independent team tasked with monitoring, evaluating, and reporting on the implementation of rehabilitation programs, so that transparency and accountability can be maintained.
4. Increased education and awareness
Integrate narcotics hazard education programs into military education curricula to increase soldiers' awareness of the risks of narcotics abuse. Provide training to officers and unit commanders to recognize signs of narcotics abuse in their environment.
5. Policy and budget support
Ensure adequate budget support from the government to finance facilities, experts, and rehabilitation programs. Develop affirmative policies that provide opportunities for rehabilitated soldiers to return to duty after passing evaluations.

This formulation aims not only to provide legal certainty but also to restore soldiers as a strategic asset of the nation, as well as to maintain the image and integrity of the TNI institution. With effective implementation, this rehabilitation concept is expected to be able to become a comprehensive solution in dealing with narcotics problems in the military environment as well as the development of a rehabilitation system that is in accordance with the needs and characteristics of the military, including: 1) Special Facilities: The construction of rehabilitation centers that are managed directly by the military to ensure security and understanding of military culture. 2) Multidisciplinary Approach: Involves medical, psychological, and legal professionals to provide a holistic

approach. 3) Socialization and Education: Training for military leaders to raise awareness of the importance of rehabilitation.

The emphasis on the principle of legal certainty in the military environment in the context of the rehabilitation of TNI soldiers involved in narcotics crimes can be explained through several important aspects that the author can describe as follows:

Harmonization of Civil and Military Legal Rules

There is dualism in the application of the law between Law Number 35 of 2009 concerning Narcotics (which regulates the right to rehabilitation for victims of narcotics abuse) and Law Number 31 of 1997 concerning Military Justice, which tends to focus on criminal sanctions and military discipline without prioritizing the rehabilitation aspect.

This study emphasizes the importance of harmonization of the two legal systems, so that soldiers who are proven to be victims of narcotics abuse (not dealers) still get the right to rehabilitation according to universally applicable legal principles. Thus, soldiers do not lose their basic rights simply because they are under military jurisdiction.

Transparent and Non-Discriminatory Law Enforcement

In some cases, there is an internal stigma in military institutions that causes the punitive approach to be more dominant than the rehabilitative approach. This often obscures the principle of legal certainty because the main focus is on maintaining the image of the institution.

The study emphasizes the importance of ensuring that every soldier is treated fairly through transparent military legal mechanisms, without discrimination based on rank or position. Legal proceedings must be based on medical evidence and an in-depth evaluation of the status of the soldier, whether he is a user, a victim, or a dealer.

Protection of Soldiers' Rights as Citizens

Many soldiers lose the right to rehabilitation because they are considered only subject to the internal rules of the military, although according to national law (Narcotics Law), narcotics users are entitled to medical and social rehabilitation.

This study emphasizes the importance of guaranteeing the right to rehabilitation for soldiers who meet the criteria as addicts or victims of narcotics abuse, as stipulated in Article 54 of the Narcotics Law. The implementation of this right must be carried out without neglecting the mechanism of military discipline, thus creating a balance between individual recovery and the enforcement of military rule.

Certainty in Rehabilitation Procedures

The absence of clear technical guidelines in the military environment regarding the rehabilitation of soldiers makes the implementation of these programs often inconsistent or dependent on individual policies at the command level.

This study emphasizes the importance of TNI internal regulations that contain detailed rehabilitation procedures, ranging from: 1) Medical and psychological assessment of soldiers, 2) Determination of rehabilitation mechanisms (medical, social, or combination), 3) Monitoring and evaluation after rehabilitation is completed. These procedures must be clear and applied consistently to avoid legal uncertainty for soldiers.

Accountability in Handling Narcotics Cases in the Military Scope

The handling of narcotics cases in the military environment is often less transparent and does not have adequate external supervision, so it has the potential to violate the principle of legal certainty.

This study emphasizes the importance of independent oversight from a team consisting of military legal representatives, medical personnel, and narcotics legal experts to ensure that each case is processed in accordance with applicable rules. This can also increase institutional accountability in handling narcotics cases.

An Approach that Integrates Military Discipline with Rehabilitation

The military environment often views rehabilitation as a weakness, preferring a hard-discipline approach without considering the recovery aspect of the individual. This study emphasizes the importance of instilling the principle that rehabilitation is not only medical recovery, but also a form of institutional responsibility to return soldiers as a strategic asset. This approach should be implemented without compromising military discipline, for example by integrating rehabilitation programs with discipline training.

Criminalization of TNI-AD soldiers involved in narcotics abuse crimes should not only be oriented towards sanctions, but also aim to create constructive behavior changes for convicts. In this case, the provision of rehabilitation as part of law enforcement has an important role to ensure the recovery of soldiers while maintaining the honor of the TNI institution. Elements of legal certainty related to rehabilitation must be integrated through the revision and harmonization of laws and regulations, such as the Criminal Code and the Narcotics Law, so that rehabilitation can be explicitly used as a legal and binding alternative sanction. With a clear legal basis, rehabilitation can be carried out in a directed, fair, and consistent manner, thus supporting individual recovery without ignoring the principles of military discipline and the interests of state defense.

According to the researcher Legal Certainty and Integration of the Military Legal System in Narcotics Rehabilitation is the key in the description above, so Novelty in this study which emphasizes more aspects In practice, military law tends to focus more on sanctions in the form of dismissal than rehabilitation. This research can be novel because it tries to bridge the two, so that in the future it can create a clearer standard for rehabilitation in the military legal system. The principle of equality in the eyes of the law is a basic principle in law that states that every individual, regardless of social status, position, or other position, must be treated equally before the law. In this context, TNI members who are involved in narcotics abuse must receive the same treatment as other civilians who are victims of narcotics abuse. Although they are part of a highly disciplined military institution, the principle of equality in the eyes of the law requires that they get the same right to rehabilitation, not just criminal punishment or dismissal.

The recovery of TNI members as victims of narcotics abuse reflects corrective justice, which aims to improve the condition of individuals and return them to society. Rehabilitation is not only a treatment for drug dependence, but also an effort to restore the dignity and integrity of the individual in a more productive social life. In this case, the same principle in the eyes of the law supports the right of TNI members to obtain rehabilitation, considering that they are victims, not just perpetrators of criminal acts

CONCLUSION

This study analyzes the regulation, application, and ideal concept of rehabilitation for TNI soldiers involved in narcotics crimes by highlighting the incompatibility between the Narcotics Rehabilitation Law, the TNI Law, and the principles of Human Rights (HAM). The Narcotics Law emphasizes rehabilitation as a solution for victims of narcotics abuse, while the TNI Law prioritizes discipline with strict sanctions, including dismissal, thus creating an imbalance in the implementation of rehabilitation for TNI members. From a human rights perspective, rehabilitation should be a guaranteed right, but a military approach that prioritizes punishment often ignores this principle.

The difference in approach between the medical model in the Narcotics Law, which views narcotics abuse as a disease that requires recovery, and the criminal law model in the TNI Law, which emphasizes disciplinary punishment, further complicates the implementation of rehabilitation. Other obstacles such as limited rehabilitation facilities in the military environment, stigma against narcotics abusers, and political and social interests also hinder the effective implementation of rehabilitation. As a result, many soldiers are more often dismissed than given the opportunity to undergo rehabilitation.

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