

## IMPLEMENTATION OF REHABILITATION FOR NARCOTICS ADDICTS IN POSITIVE LEGAL PERSPECTIVE AND ISLAMIC LAW

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**Abstract:** This study aims to analyze the concept of rehabilitation of addicts at BABESREHAB BNN Lido West Java so that obstacles and challenges in the implementation of rehabilitation for narcotics addicts can be identified with the help of empirical normative analysis. This research also aims to analyze the actualization - in social rehabilitation, especially the mental coaching room. This research was a legal research with an interdisciplinary socio-legal study. The author uses this study model in order to describe legal issues more meaningfully from both a theoretical and practical point of view. This research was conducted at the Rehabilitation Center of the National Narcotics Agency (BABESREHAB BNN Lido West Java) Lido because this rehabilitation institution is a large rehabilitation center directly owned by the government, which was suspected to have made a major contribution to the success of rehabilitation in accordance with applicable laws and policies. This study also uses a mixed methodology consisting of reviewing legal documents and government policies and institutions under it, focus group discussions, and semi-structured interviews. This study also uses an ethnographic content analysis approach known as Ethnographic Content Analysis (ECA). Research informants consisted of 7 practitioner staff and 4 informants from rehabilitation residents. This study concludes that rehabilitation in Indonesia still requires attention from all parties, government, private, and family in solving all obstacles and challenges in its implementation. The allegation that the Lido National Narcotics Agency Rehabilitation (BABESREHAB BNN Lido West Java) which is directly controlled by the government, has contributed greatly to the success of rehabilitation in accordance with the law, applicable policy, as well as - not yet fully confirmed. This study found several problems in the implementation of rehabilitation, namely, (1) there is no reach out for prospective rehabilitation residents, (2) there are still dilemmas in forced rehabilitation, resident motivation, and voca-

tional training (3) limited number of functional personnel, (4) lack of awareness legal and policy context, (5) Islamic mental development curriculum is not yet comprehensive.

**Keywords:** Rehabilitation, Addiction, BABESREHAB BNN Lido West Java, *Maqashid Sharia*

**Abstrak:** Penelitian ini bertujuan untuk menganalisis konsep rehabilitasi pecandu di BABESREHAB BNN Lido Jawa Barat sehingga dapat diketahui hambatan dan tantangan dalam pelaksanaan rehabilitasi bagi pecandu narkoba dengan bantuan analisis normatif empiris. Penelitian ini juga bertujuan untuk menganalisis aktualisasi - dalam rehabilitasi sosial khususnya ruang pembinaan mental. Penelitian ini merupakan penelitian hukum dengan studi sosio-hukum interdisipliner. Penulis menggunakan model penelitian ini untuk mendeskripsikan masalah hukum secara lebih bermakna baik dari sudut pandang teoretis maupun praktis. Penelitian ini dilakukan di Balai Rehabilitasi Badan Narkotika Nasional (BABESREHAB BNN Lido Jawa Barat) Lido karena lembaga rehabilitasi ini merupakan pusat rehabilitasi besar yang dimiliki langsung oleh pemerintah, yang ditengarai telah memberikan kontribusi besar bagi keberhasilan rehabilitasi. sesuai dengan hukum dan kebijakan yang berlaku. Kajian ini juga menggunakan metodologi campuran yang terdiri dari kajian dokumen hukum dan kebijakan serta institusi pemerintah di bawahnya, diskusi kelompok terfokus, dan wawancara semi terstruktur. Penelitian ini juga menggunakan pendekatan analisis isi etnografi yang dikenal dengan Etnografi Content Analysis (ECA). Informan penelitian terdiri dari 7 orang staf praktisi dan 4 orang informan dari warga rehabilitasi. Kajian ini menyimpulkan bahwa rehabilitasi di Indonesia masih memerlukan perhatian semua pihak, baik pemerintah, swasta, maupun keluarga dalam mengatasi segala hambatan dan tantangan dalam pelaksanaannya. Dugaan bahwa Badan Rehabilitasi Narkotika Nasional Lido (BABESREHAB BNN Lido Jawa Barat) yang dikendalikan langsung oleh pemerintah, telah memberikan kontribusi besar terhadap keberhasilan rehabilitasi sesuai dengan undang-undang, kebijakan yang berlaku, serta - belum sepenuhnya dikonfirmasi. Penelitian ini menemukan beberapa permasalahan dalam pelaksanaan rehabilitasi, yaitu, (1) belum adanya jangkauan bagi calon warga rehabilitasi, (2) masih adanya dilema dalam rehabilitasi paksa, motivasi warga, dan pelatihan vokasi (3) terbatasnya jumlah fungsional. personel, (4) kurangnya kesadaran konteks hukum dan kebijakan, (5) kurikulum pengembangan mental Islam belum komprehensif.

**Kata Kunci:** Rehabilitasi, Adiksi, BABESREHAB BNN Lido Jawa Barat, *Maqashid al-syari'ah*

## Introduction

The Indonesian government and non-governmental organizations have taken a more active role in addressing the problem of drug abuse. In line with these efforts,

various drug rehabilitation centers have been established. Despite the efforts made by various authorities, many of these authorities have not succeeded in solving drug addiction abuse. The establishment of

a rehabilitation center as a method of drug treatment and rehabilitation is in fact not something to be proud of at this time. Relapsed drug addicts reported by the National Narcotics Agency hereinafter abbreviated as the Rehabilitation Center of the National Narcotics Agency (BNN) each year prove the fact that the ongoing rehabilitation process is far from satisfactory. The number of drug addicts who recover after following the treatment and rehabilitation program is very small compared to those who relapse. Drug abuse in Indonesia is at an emergency level and has a negative impact on physical and mental damage to anyone who consumes it.<sup>1</sup> The high number of narcotics addicts is certainly a serious problem for the government to be addressed quickly and accurately.

**Table 1. Data on Narcotics Abuse Cases 2012 - 2018<sup>2</sup>**

Period	Case	Increase per Year
2012	54,705	
2013	62,334	22.1% Cases
2014	64,224	
2015	68,403	
2016	77,284	
2017	96,945	68.7% Cases
2018	104,206	

Source: Puslidatin BNN - Health Research of Drugs Abuse Effects 2019

<sup>1</sup> The National Narcotics Agency Research, Data and Information Center 2020 states that under narcotics abuse cases have reached 11.8%, which is the 3rd highest level of social problems in Indonesia

<sup>2</sup> Pusat Penelitian Data dan Informasi Badan Narkotika Nasional 2019, *Health Research of Drugs Abuse Effects 2019*, (Jakarta Timur: Pusat Penelitian Data dan Informasi Badan Narkotika Nasional Republik Indonesia), p. 10.

Based on Center for Research, Data and Information (Puslidatin) National Narcotics Agency (BNN) - LIPI revealed that this case always and tends to increase from 21% (2012-2015) to 68.7% (2016-2018).<sup>3</sup> This increase in narcotics crime has increased along with the role of the dealer. The higher the reporting of the suspect, making him a dealer or reporter provides evidence that this trend is increasing.

In Indonesia, a history of the use of narcotics and the like begins with Staatsblad 1929 No. 278 and No. 536, State Gazette 1949 No. 149, Narcotics Law no. 9/1976, Narcotics Law no. 22/1997 to the Narcotics Law 35/2009, the statutory regulations describe that the main purpose of narcotics regulation is about management, state guarantees to manage narcotics distribution and is not a civil violation but focuses more on criminal, because this is classified as a problem administration.

Now the existence of Law No. 35 of 2009 concerning Narcotics has been sought in order to provide community protection to avoid the threat and entrapment of narcotics. This law has emphasized that rehabilitation can be a treatment solution for narcotics addicts to get a complete recovery and not fall back into drug addiction. Even in Article 54 it is stipulated and affirmed that narcotics addicts and victims of their abuse are required to carry out medical and social rehabilitation. Article 55 paragraph 1 also mandates that families, in this case parents and guardians of narcotic addicts who are not of age, are required to report their children to community health centers, hospitals and social rehabilitation institutions.

One of the BNN's efforts to deal with narcotics addicts is through rehabilitation. Rehabilitation as an alternative effort to imprisonment for narcotics addicts, because narcotics addicts are victims who

<sup>3</sup> Ibid., p. 11.

need treatment with rehabilitation facilities and are determined to be addicts

Narcotics by judges and the punishment is calculated so that narcotics addicts can free themselves from narcotics dependence. BNN as the main person in charge of tackling rehabilitation in Indonesia seeks to provide a national referral center for rehabilitation for narcotics addicts, one of which is located in Lido, West Java, which is the center for rehabilitation in Indonesia. Rehabilitation services there are carried out professionally supported by the State Revenue and Expenditure Budget (APBN).<sup>4</sup> BABESREHAB BNN Lido West Java has facilities to serve medical and social rehabilitation with a one-stop service system. As for social rehabilitation, this center applies the Therapeutic Community (TC) method for 6 months with a capacity of 500 people.<sup>5</sup> BABESREHAB BNN Lido West Java is very concerned about other values that can be used as an approach in the recovery of residents (addicts who are being rehabilitated) narcotic addicts at BABESREHAB BNN Lido, one of which is a religious approach. In this hall, residents have a busy schedule from 05.00-22.00 WIB, starting from the morning prayer in congregation until they return to rest. If they are late, they will be punished so they can be more responsible. In this hall there are also supporting facilities for residents such as sports venues, proper places of worship, counseling programs, religious programs, and others

Based on the perspective of Islamic Law, Islam as a religion is a religion that is natural and relevant to conditions that are increasingly developing in society, so that it is able to provide solutions to every problem faced by each individual, family and

community. In the Al-Quran and Hadith, it does not contain the term narcotics or similar substances that are growing rapidly today. However, the Qur'an and Hadith are sources of Islamic law that clearly and firmly regulate the basic principles as a reference in finding supporting evidence related to the narcotics issue and supported by studies of *ushul fiqh*. In this case, narcotics can be resolved through the *qiyas* method (analog). Status of drug prohibition is analogous to *khamr* (liquor) in surah Al-Maidah verse 90:

“O ye who believe! Verily, drinking, gambling, (sacrificing for) idols, and drawing lots of luck with arrows, are heinous acts and are among the actions of the devil. So stay away from those (actions) so that you will be lucky.

In this verse, it is very clearly mentioned about the prohibition of *khamr*. The scholars tend to analogize narcotics and intoxicants as *khamr*.<sup>6</sup> This was because between the two there are similarities *illat* which is something that makes drunk. Where in the Koran is called *khamr*. Although in terms of form it is different from *khamr* and similar narcotics, which was intoxicating and eliminates the normality of the mind.<sup>7</sup> This *qiyas* was categorized as *hall qiyas* because narcotics have a more dangerous effect than *khamr*. Islamic law is *al-maslahat al-ammah* based on the QS. Al-Anbiya verse 107.

The implication of this verse is that the Islamic spirit can be used as a standard regarding optimizing efforts to treat and recover narcotics addicts through rehabilitative protection for drug addicts. Because Islam has already guaranteed the maintenance of human benefit based on legal ref-

<sup>4</sup> <https://www.beritasatu.com/nasional/577035/negara-sediakan-rehabilitasi-gratis-bagi-pasien-narkotika>, Accessed Monday, January 25, 2021

<sup>5</sup> <https://rehabilitasi.bnn.go.id/public/about>, Accessed Monday, January 25, 2021

<sup>6</sup> Ahmad Muhammad Assaf, *Al-Ahkam al-Fiqhiyyah fi al-Madzahib al-Islamiyah al-Arba'ah* (Beirut: Dar Ihya al-Ulum, 1988), cet II, Vol. II, p. 112.

<sup>7</sup> Yusuf Qardhawi, *Fatwa-fatwa Kontemporer*, (Jakarta: Gema Insani Press), p. 72

erences from five main aspects, namely *maqasid al-syariyya* or known as *al-kulliyat al-khams* or *dharuriyat al-khams*.<sup>8</sup> So that this is in accordance with operational standards as well as a reference for optimizing the treatment of narcotics addicts at the rehabilitative level. *Hifzh al-din* became an institution of relevance for the spiritual rehabilitation of narcotics addicts. Furthermore, *hifzh al-'aql* became an institution of relevance for the protection of the mind of narcotic addicts.

Rehabilitation as a form of rehabilitation is becoming increasingly important to be optimized in Indonesia. Because in reality, there are still narcotics addicts, who are still in prison without being rehabilitated. This is very reasonable why the number of narcotics users continues to rise, which is why the government should provide treatment through rehabilitation to keep drug addicts from being trapped in a very dangerous trap for themselves, their families, the environment, the nation and the country. So even though the effectiveness of the implementation of rehabilitation both in program implementation, the competence of human resources or facilities and infrastructure has reached very good, the government or community institutions must continue to pay attention to the prevention and eradication of narcotics in Indonesia. In addition, the availability of access to narcotics abuse rehabilitation institutions varies from region to region. Other data also proves that 50% of residents know about rehabilitation centers, proving that half of Indonesians do not know about rehabilitation and the importance of rehabilitation.<sup>9</sup> While this is the most important thing in

the treatment process for narcotics addicts, it is through a rehabilitative approach and preventing the relapse of drug addiction. Because in essence, rehabilitation institutions provided by the government or community components are the most instrumental in realizing these expectations.

Therefore, all components of society have a significant responsibility in helping narcotics addicts in the form of rehabilitation as a form of recovery from all sides, both from the medical side, spiritual, social support, as well as efforts to prevent addiction from drug recurring. So in each rehabilitation institution for narcotics addicts in each region have different programs and techniques in carrying out the rehabilitation process for narcotics addicts. Furthermore, there is a need for efforts as well as the process of rehabilitation given to narcotics addicts that has been effectively adjusted to the positive legal mandate. Not only that, the author assumes the need for identification of rehabilitation goals in accordance with the reality that occurs in the field. Then further analysis of the perspective of *maqasid al-syari'ah* is carried out which is the parameter of Islamic law in its implementation. In order to be a form of evaluation for the implementation of rehabilitation for narcotics addicts in Indonesia in particular and in the world arena in general.

Research on the rehabilitation process for narcotics addicts is inseparable from the studies of previous researchers. First, research conducted by Somboon in Thailand. This research is titled The Islamic Integrated Model for Drug Addict Treatment and Rehabilitation on Kratom Use Among Muslim Adolescents: A Case Study in Krabi Province in 2019.<sup>10</sup> This re-

<sup>8</sup> Hamadi al-Ubaidi, *al-Shatibi wa Maqashid al-Syar'iyah*, (Beirut: Daar al Qutaibah, 1992), p. 122.

<sup>9</sup> Pusat Penelitian, Data dan Informasi Badan Narkotika Nasional, *Indonesia Drug Report 2020*, (Jakarta Timur: Pusat Penelitian, Data dan Informasi Badan Narkotika Nasional), p. 8.

<sup>10</sup> Yupa Somboon, "The Islamic Integrated Model for Drug Addict Treatment and Rehabilitation on Kratom Use Among Muslim Adolescents: A Case Study in



search is a descriptive study using qualitative data collection as data to be used in the analysis process. The purpose of this study was to study an integrated Islamic drug treatment model for Muslim youth with drug addiction in the Krabi Province of Thailand. In addition, this study also analyzes traditional rehabilitation using plant media as the most important requirement for successful rehabilitation. The plant is a Kratom leaf that is cultivated at the Krabi Province cottage educational institution. This plant has even been known for its reputation for effective treatment of addicts and drug abuse. This study included as many as 225 participants in the interview, consisting of residents of narcotics addicts in Indonesia

Research data collection was also carried out through in-depth interviews and focus group discussions (FGD). Documentation and interview data collected from discussions with the participants involved were collected from July 2019 - December 2019. Then the data was analyzed by content analysis. According to Somboon, his research shows that the pattern of drug treatment in an integrated way and integrated with Islamic values allows drug addicts to quit drugs firmly. The successful Islamic values consist of four components, 1) context, namely the transfer of knowledge and experience of therapists to residents, Islamic environmental facilities that are conducive to rehabilitation treatment sites, 2) the treatment preparation process consists of preparing physical and mental conditions, residents, 3) ensure that residents sign an agreement or take an oath before receiving treatment, follow all Islamic integrated treatment procedures, develop a treatment system with repeated treatment strategies, establish Islamic inte-

grated rules, discipline and care systems Rehabilitation of the body, mind, society and soul using Islamic theory, Faith and Ihsan. 4) Observe a very careful system of care and supervision from the beginning of the resident being in the rehabilitation center until the resident returns to the community. If examined, there are similarities between Samboon's research inside and the author's research, namely the use of an Islamic religious scientific approach in paying attention to the phenomenon of rehabilitation in a certain area. However, this study has many differences with the author's research. The author's focus is on legal-policy analysis, as well as on the phenomenon of implementation of rehabilitation using conventional Indonesian legal theories and approaches and the values of *maqasid al-shari'ah*. In addition, participants in the category of resident drug addicts involved in this author's study are not limited to having come from a particular area.

Second, Ageel's 2006 research entitled Drug Rehabilitation and Practice Dilemmas in the Maldives.<sup>11</sup> This research is a psychological research with a legal approach to normative and empirical paradigms. This study was motivated by Ageel's desire to explore the legal context of drug addict's rehabilitation services in the Maldives. This study aims to pay particular attention to the tensions that still exist between the formal policies of the National Narcotics Control Bureau in the Maldives and its clinical practice at the National Narcotics Agency in the Maldives. The source of this research data is taken from a content review of government policy documents and services at the Maldives National Narcotics Agency. The difference between this study and the au-

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Krabi Province," *Thesis* of Master of Science in Health System Management Prince of Songkla University Thailand, 2019.

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<sup>11</sup> Ihsana Ageel, "Drug Rehabilitation and Practice Dilemmas in the Maldives." *PhD. diss.*, The University of Waikato New Zealand, 2006.

thor's research is that Ageel's study only included five participants to conduct semi-structured individual interviews. These participants came from clinical practitioners and senior rehabilitation administration staff, FGDs was also conducted by Ageel for three days with clinical staff. The findings of this study indicate that the lack of awareness of the legal and policy context among practitioners for the provision of rehabilitation services and the ways in which it is implemented in the policy framework often reduces the effectiveness of forging therapeutic service practices by practitioners. The similarity between this research and the author's research is that Ageel's sharia approach is also used to pay attention to the practice of rehabilitation services in Meldives, because Islamic Sharia has dictated civil law and social norms in Meldives since 1153 BC. What is interesting from the results of this study is that Ageel found a lack of involvement of clinical staff in the formation of the rule of law and revision of policies related to rehabilitation. This contributes to a series of tensions and contradictions between the official goals of rehabilitation services and the actual provision of services on the ground. In addition, this research also reveals that there are various ethical problems that arise as a result of inadequate professional monitoring, very limited training, and almost zero policy peer review. Ageel's recommendation for the findings of this study was that all parties, policy makers, medical personnel and rehabilitation staff must immediately address these findings to improve the Maldives' response to the increasing number of drug abuse addicts.

This research was a legal research with an interdisciplinary socio-legal study. This study uses a major study of positive or conventional law in Indonesia and the sciences related to Islamic law from a societal perspective. The author uses this study

model to describe the problem law is more meaningful from both a theoretical and practical point of view.<sup>12</sup> The aim was that this study may explain how the law works in people's daily lives. In the context of this research, people's lives that will be considered are within the scope of the Rehabilitation Center of the National Narcotics Agency (BABESREHAB BNN Lido West Java). The author chose the Lido National Narcotics Agency Rehabilitation Center (BABESREHAB BNN Lido West Java) because this rehabilitation institution is a rehabilitation center directly held by the government, which is expected to make a major contribution to the success of rehabilitation in accordance with applicable laws and policies.

As Carothers (2006) explains that legal studies are always trapped in the mainstream so that they are unable to answer various justice issues related to marginalized communities, in the context of this study, justice for narcotics addicts.<sup>13</sup> When it should be a lot of problems marginalized communities should be solved and answered contextually and with the help of an interdisciplinary scientific approach. So that the academic community can explain how the relationship between law and society is to achieve justice.<sup>14</sup> This research also uses a mixed methodology which consists of reviewing legal documents and government policies and institutions under it, focus group discussions, and semi-structured interviews. This study also uses an ethnographic content analysis approach

<sup>12</sup> Irianto, Sulistyowati, "Praktik Penelitian Hukum: Perspektif Sosiolegal." *Metode Penelitian Hukum: Konstelasi dan Refleksi* (Jakarta: Yayasan Obor Indonesia, 2011), p. 5.

<sup>13</sup> Carothers, Thomas. "The Problem of Knowledge." *Promoting the Rule of Law Abroad: In Search of Knowledge* (2006): 15-30.

<sup>14</sup> Banakar, Reza, and Max Travers, eds. *Theory and Method in Socio-Legal Research*, Bloomsbury Publishing, 2005, p. 7.

known as Ethnographic content analysis (ECA). Research informants consisted of 7 practitioner staff and 4 informants from rehabilitation residents.

The research informants consisted of 7 rehabilitation practitioners' staff. The details are 1 nurse with tenure from 2012 to present (2021), 1 psychologist with tenure from 2015 to present, 1 addiction counselor with tenure from 2016 to present, 1 rehabilitation officer supporting vocational instructors with tenure one year work, 1 rehabilitation officer supporting Mental Advisor with tenure from 2015 until now, 1 person major on duty major on duty<sup>15</sup> with a period of service from 2012 to (the who participated as an informant in this study was a former narcotics addict who worked as a supervisor for the House of Hope dormitory). There are 4 informants from resident<sup>16</sup>, consisting of 1 resident of the House of Faith with a history of detoxification rehabilitation for 14 days and an orientation or stabilization period for new residents for 10 days, 1 resident of the House of Re-entry with a history of rehabilitation for 5 months and 9 days, 1 resident of the House of Hope with a history of two rehabilitations in 2016 for 6 months and now 2021 for 3 months, 1 female resident of the House of Light with a history of rehabilitation for 5 months 7 days. The data obtained from the documentation of legal documents, in the form of laws and government policies and the institutions under them, the results of data collection on focus group discussions, and

semi-structured individual interviews were analyzed using thematic analysis.<sup>17</sup>

Based on this explanation, the authors are interested in studying how the obstacles and challenges of implementing the rehabilitation of narcotics addicts are identified with the help of empirical normative analysis in the perspective of positive law and *maqasid al-syari'ah*. This study also examines the actualization of *Maqasid al-Shari'ah* in social rehabilitation, especially mental development.

### Rehabilitation of Narcotics Addicts

Narcotics addiction is often referred to as a chronic relapsing disease with a cycle that can continue to repeat itself.<sup>18</sup> This cycle can consist from addiction, recovery, and re-addiction.<sup>19</sup> A number of studies have shown that the initial phase of treatment related to resident motivation in rehabilitation is very important to encourage change and the willingness of residents to be involved in the subsequent treatment process.<sup>20</sup> Various other studies also explain that in rehabilitation treatment facilitated by community-based service providers, an increase in the number of rehabilitation counseling sessions for each individual during the first month of treatment (recovery) has been shown to significantly increase resident retention against the emer-

<sup>15</sup> Major on Duty is a clinical staff or counselor who is in charge of and responsible for the daily rehabilitation program. See Technical Guidelines for Therapeutic Community (TC) Rehabilitation, Jakarta: National Narcotics Agency of the Republic of Indonesia, 2012, p. 5.

<sup>16</sup> The resident has a drug use/dependency disorder and is in the Therapeutic Community TC program. See Technical Guidelines for Therapeutic Community (TC) Rehabilitation, Jakarta: National Narcotics Agency of the Republic of Indonesia, 2012, p. 5.

<sup>17</sup> Uwe Flick, "What is qualitative research." *Designing Qualitative Research* (2007): 2-16.

<sup>18</sup> Herbert D. Kleber, "Treatment of drug dependence: what works." *International Review of Psychiatry* 1, no. 1-2 (1989): 81-99.

<sup>19</sup> Jerome J. Platt, *The Addict, the Treatment Process, and Social Control* (Krieger, 1995), p.15.

<sup>20</sup> George De Leon, "Retention in drug-free therapeutic communities" *Improving Drug Abuse Treatment, National Institute on Drug Abuse Research Monograph* 106 (1991): 218-244.



gence of re-addiction.<sup>21</sup> In particular for residents with a history of treatment with a proportion of force caused by arrest by the authorities (or legally referred), then in the initial phase of treatment (recovery in rehabilitation), officers must emphasize the recognition of the problem and the resident's willingness to change and carry out rehabilitation voluntarily before introducing residents to rehabilitation support tools.<sup>22</sup>

In addition, the health care sector in the process of medical rehabilitation, the interaction of patients and health care providers must be considered as one of the experiences of the most powerful and emotionally to the resident feel is the connection of empathy<sup>23</sup> among health care providers with the resident through the adoption of various strategies varies. According to Gautam (2019) empathy is an important skill for health workers in the rehabilitation and recovery process in dealing with residents who suffer from drug use disorders or abuse.<sup>24</sup>

In order to optimize and overcome the problem of drug abuse and addiction, the government and the community set up rehabilitation centers in various regions. In the past, the criminal justice system was responsible for 40 to 50% of referrals to community-based treatment programs.<sup>26</sup>

The proportion of residents of criminal justice treatment in various countries is also faced with debates and problems with the main policies and programs in the treatment and rehabilitation of narcotics abuse residents, including a decrease in the effectiveness and appropriateness of forcing perpetrators to enter the services of rehabilitation institutions and remain in treatment.

Some researchers argue that there is very little benefit that can be obtained by residents when residents with referrals are legally forced to undergo rehabilitation treatment by the criminal justice system.<sup>27</sup> Some researchers even strongly oppose forced treatment for the rehabilitation of residents on philosophical or constitutional grounds.<sup>28</sup> Other researchers also oppose forced treatment on clinical grounds, arguing and defending the argument that drug rehabilitation treatment can be effective only if the resident is genuinely motivated to change; a variation of this position is that addicts must "bottom off" before they can benefit from treatment, but this is a situation that does not apply to most coerced residents.<sup>29</sup>

According to this view, legally coercive rehabilitation is a poor investment in devoting expert resources to individuals who are unlikely to change because those who are coerced have little or no motivation to change during the recovery process. Furthermore, in situations where available rehabilitation treatment slots are minimal, policymakers can violate the notion of distributive justice by not providing treatment to addicts who do not want rehabilitation (even though residents may benefit significantly from rehabilitation), because residents like this, they do it, but at the same

<sup>21</sup> George De Leon, "Therapeutic communities for addictions: A theoretical framework, *International Journal of the Addictions* 30, no. 12 (1995): 1603-1645.

<sup>22</sup> David Farabee, Michael Prendergast, Jerome Cartier, Harry Wexler, Kevin Knight, and M. Douglas Anglin, "Barriers to implementing effective correctional drug treatment programs," *The Prison Journal* 79, no. 2 (1999): 150-162.

<sup>23</sup> Vera Flasbeck, Cristina Gonzalez-Lienres, and Martin Brüne, "The brain that feels into others: Toward a neuroscience of empathy," In *The Neuroscience of Empathy, Compassion, and Self-Compassion*, pp. 23-51. Academic Press, 2018.

<sup>24</sup> Ashutosh Gautam, "Empathy Design in Skills Assessment tool for Recovery and Rehabilitation," *Master's Thesis*, 2019.

time, they do not want the treatment.<sup>25</sup>

Other researchers have a different opinion. They argue that some chronic drug addicts will enter and remain in treatment without external motivation and that legal coercion can be justified as other motivations for other residents to enter drug rehabilitation treatment.<sup>26</sup> Many studies suggest that residents with legal coercion still have to get rehabilitation rights because controlling drug abuse and addiction by providing rehabilitation can benefit society as a whole. So that the criminal justice system must bring perpetrators of narcotics abuse into care to protect and prioritize the interests and welfare of the general public.<sup>27</sup>

Coercive rehabilitation is spearheaded by the policies of law enforcement officials or courts, and these policies are necessary to initiate the treatment process. In many cases, residents are assumed to comply with this kind of coercion.<sup>28</sup> Böllinger argues that this compliance may represent only a tactical adaptation and is not entirely realistic in certain situations. In addition, forced rehabilitation does not have many implications for post-rehabilitation behavior changes in several cases that have occurred. It will ultimately conflict with the ultimate goal of rehabilitation, which should be to help and restore the resident to regain control over him and maintain

the highest level of autonomy possible to maximize his participation in making choices in life. Thus, respecting residents' autonomy and their empowerment process should be included in the definition of rehabilitation. In controversial cases such as serious violent crimes, forced treatment may be legal. However, such coercion does not appear compatible with drug abuse rehabilitation, a combination of illness and crime.<sup>29</sup>

In addition, in the rehabilitation of all people, especially officers involved in interactions with resident addicts, abusers, and victims of narcotics abusers, they must uphold the code of ethics. A code of ethics is the identifier that most directly defines a profession for its stakeholders. Policymakers follow this code and the processes used to enforce professional practice. The code of ethics also serves as a manifesto that explains how members define practice with proper practice.<sup>30</sup>

The treatment and rehabilitation approach adopted by the rehabilitation center includes two essential aspects, namely psychosocial aspects and aspects of physical endurance and discipline—the first consists of two main parts, psychological and social. The psychological component focuses on internal rehabilitation regarding the resident's attitudes, personality, values, personal behavior, and problem-solving methods. On the other hand, sociology focuses on external factors such as rapprochement between personal, group relations, family relations, society, and religious ties. While the first emphasizes psychology and social, the second aims to

<sup>25</sup> M. Douglas Anglin, Michael Prendergast, and David Farabee. "The effectiveness of coerced treatment for drug-abusing offenders," In *Office of National Drug Control Policy's Conference of Scholars and Policy Makers, Washington, DC*, (1998): 23-25.

<sup>26</sup> M. Douglas Anglin, and Yih-Ing Hser. "Criminal justice and the drug-abusing offender: Policy issues of coerced treatment," *Behavioral Sciences & the Law* 9, no. 3 (1991): 243-267.

<sup>27</sup> M. D. Anglin, and T. H. Maugh, "Overturning myths about coerced drug treatment," *California Psychologist* 14 (1992): 20-22.

<sup>28</sup> Lorenz Böllinger, "Therapy instead of punishment for drug users—Germany as a model?," *European Addiction Research* 8, no. 2 (2002): 54-60.

<sup>29</sup> Mieke Cardol, BA De Jong, and Chris D. Ward. "On autonomy and participation in rehabilitation." *Disability and Rehabilitation* 24, no. 18 (2002): 970-974.

<sup>30</sup> Vilia M. Tarvydas, and R. Rocco Cottone. "The code of ethics for professional rehabilitation counselors: What we have and what we need." *Rehabilitation Counseling Bulletin* 43, no. 4 (2000): 188-196.

build disciplined physical and mental resilience. Rehabilitation activities that use this approach include physical, psychological, vocational, self-discipline, religious, civic, family, community, and recreational rehabilitation.<sup>31</sup>

Rehabilitation centers in various countries have provided many facilities to support rehabilitation programs such as drug detection, narcotics detoxification, giving rehabilitation orders, military-style rehabilitation training, various vocational skills training for rehabilitation, counseling, religious classes, rehabilitation activities for civilians and government, activities rehabilitation through agriculture and animal husbandry. In general, narcotics addicts who undergo the rehabilitation process at a rehabilitation center must go through four rehabilitation stages: the learning process, implementation, self-awareness, and integration.<sup>32</sup>

Rehabilitation is a way to restore good and acceptable behavior. Rehabilitation has also functioned as a means of returning someone to their original state or bringing something back to a good condition.<sup>33</sup> Many studies mention rehabilitation as an intervention or treatment, for example, effective interventions for adolescent drug users<sup>34</sup> and family-based care for adoles-

cent drug abuse.<sup>35</sup> In the context of this study, rehabilitation will be referred to as treatment because most studies use the word treatment. For treatment to be practical, several aspects need to be considered: early detection and intervention, the format of treatment delivery, namely individual or group treatment, duration of treatment, and inpatient or outpatient basis.

Some treatment centers provide care on an individual or group basis on a long or short-term basis. Treatment centers prefer to include families during treatment through family guest house facilities in most countries. Lewis et al. (2011) saw that the group rehabilitation treatment format in several sessions has great effectiveness and potential compared to individual treatment because it focuses on building interpersonal relationships and the quality of social skills in groups.<sup>36</sup> They further stated that group members benefit from the feedback and insights of other group members. Gunter and Abdel-Salam (2013) also agree with Lewis et al. (2011) that a treatment modality called "therapeutic community" in which residents live together and trigger social and psychological changes must be facilitated by the community with the same age or peer ratio.<sup>37</sup> On the other hand, some scholars have argued that the intervention or treatment administered in a group did not have too much of the desired effect on the behavior change outcomes of residents.<sup>38</sup> For example,

<sup>31</sup> Fadzli Adam, Wan Ibrahim Wan Ahmad, and Sudirman Abdul Fatah. "Spiritual and traditional rehabilitation modality of drug addiction in Malaysia." *International Journal of Humanities and Social Science* 1, no. 14 (2011): 175-181.

<sup>32</sup> Margaret L. Polinsky, Yih-Lng Hser, M. Douglas Anglin, and Margaret A. Maglione, "Drug-user treatment programs in a large metropolitan area." *Substance use & Misuse* 33, no. 8 (1998): 1735-1761.

<sup>33</sup> Mairi Robinson and George W. Davidson. *Chabers 21st Century Dictionary*, Allied Publishers, 1996, p. 1175.

<sup>34</sup> Tara Carney and Bronwyn Myers, "Effectiveness of early interventions for substance-using adolescents: findings from a systematic review and meta-analysis," *Substance Abuse Treatment, Prevention, and Policy* 7, no. 1 (2012): 1-15.

<sup>35</sup> Aaron Hogue and Howard A. Liddle, "Family-based treatment for adolescent substance abuse: controlled trials and new horizons in services research," *Journal of Family Therapy* 31, no. 2 (2009): 126-154.

<sup>36</sup> J. A. Lewis, R. Q. Dana, and G. A. Blevins, "Substance abuse counselling, Belmont: Brooks," *Cole Cengage Learning* (2011), p. 130.

<sup>37</sup> Whitney D. Gunter and Sami Abdel-Salam, "Therapeutic engagement and posttreatment substance use in adolescent TC clients: Direct and indirect effects," *Journal of Drug Issues* 44, no. 1 (2014): 22-36.

<sup>38</sup> T. Carney & B. Myers, "Effectiveness of early intervention for substance-using adolescent: findings from

treatment is given in an individual format across multiple sessions has a much more significant effect on the frequency of medication use than that given in a group format.

Hogue and Liddle state that family therapy for drug addicts is the safest, acceptable, feasible, and promising approach to the problem of drug addiction. Hengeler et al.<sup>39</sup>, cited in Hogue and Liddle, alludes to the finding that family-based therapy has a superior outcome effect for drug use residents than group or community-based therapy. Researchers agree that single treatment sessions are not as practical as group treatment sessions.

In the context of medical rehabilitation, inpatient facilities for intensive care are also very suitable for the treatment of narcotics addicts compared to outpatient facilities, where addicts have to travel every day for treatment. Watermeyer emphasized that narcotics addicts feel helpless because they have to come to a treatment center every day faced with high travel costs and have to go back out to communities where their friends all use drugs and drug traffickers and their environment, they feel disturbed by the condition that drugs are always readily available in their community and environment.<sup>40</sup> Breda and Heflinger also state that in order for treatment to be effective, narcotics addicts need to have the motivation and readiness for treatment to

result in successful rehabilitation.<sup>41</sup> Motivation is strongly influenced by cognitive factors, internal emotional and physical factors of the resident, for example, expressing dissatisfaction with the lifestyle of drug addicts, acknowledging that drug abuse causes many difficulties in life, and the desire to change drug abuse behavior.<sup>42</sup>

As a result, motivated drug addicts are more likely to experience more positive outcomes and are less likely to relapse after treatment (readdiction). To support this statement, Aroman et al.<sup>43</sup>, Jainchill et al.<sup>44</sup>, Moral et al. stated that there is still a possibility that residents who complete the treatment program tend to use narcotics after treatment.<sup>45</sup> According to Hser et al., Jainchill, Hawke, De Leon, and Yagelka<sup>46</sup> stated that treatment retention is another essential element associated with positive drug addict rehabilitation outcomes. Neu-

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a systematic review and meta-analysis," *Substance Abuse Treatment, Prevention and Policy* 7, no. 25, (2012): 7-10.

<sup>39</sup> Scott W. Henggeler, Colleen A. Halliday-Boykins, Phillippe B. Cunningham, Jeff Randall, Steven B. Shapiro, and Jason E. Chapman, "Juvenile drug court: enhancing outcomes by integrating evidence-based treatments," *Journal of Consulting and Clinical Psychology* 74, no. 1 (2006): 42-54.

<sup>40</sup> See Makhosazana Patricia Mzolo, "Exploring family support for adolescents after rehabilitation for drug abuse," *PhD diss.*, University of South Africa, 2015, p. 30.

<sup>41</sup> Carolyn S. Breda and Craig Anne Heflinger, "The impact of motivation to change on substance use among adolescents in treatment," *Journal of Child & Adolescent Substance Abuse* 16, no. 3 (2007): 109-124.

<sup>42</sup> Paul J. Rosen, Matthew L. Hiller, J. Matthew Webster, Michele Staton, and Carl Leukefeld, "Treatment motivation and therapeutic engagement in prison-based substance use treatment," *Journal of psychoactive drugs* 36, no. 3 (2004): 387-396.

<sup>43</sup> Jr. Aromin, A. Romulo, Marc Galanter, Ramon Solhkhah, Helen Dermatis, and Gregory Bunt, "Preference for spirituality and twelve-step-oriented approaches among adolescents in a residential therapeutic community." *Journal of Addictive Diseases* 25, no. 2 (2006): 89-96.

<sup>44</sup> Nancy Jainchill, Josephine Hawke, and Maria Messina, "Post-treatment outcomes among adjudicated adolescent males and females in modified therapeutic community treatment," *Substance Use & Misuse* 40, no. 7 (2005): 975-996.

<sup>45</sup> Andrew R. Morral, Daniel F. McCaffrey, and Greg Ridgeway, "Effectiveness of community-based treatment for substance-abusing adolescents: 12-month outcomes of youths entering phoenix academy or alternative probation dispositions," *Psychology of Addictive Behaviors* 18, no. 3 (2004): 257-268.

<sup>46</sup> Nancy Jainchill, Josephine Hawke, George De Leon, and John Yagelka, "Adolescents in therapeutic communities: One-year posttreatment outcomes," *Journal of Psychoactive drugs* 32, no. 1 (2000): 81-94.

mann et al. repeat that despite the positive impact of rehabilitation retention on post-rehabilitation outcomes, only half of addicts enter rehabilitation and complete it. Rehabilitation retention is significant because it helps ensure the addict has received an adequate dose of medication or not.<sup>47</sup>

In addition, in some countries, the government and society allow some rehabilitation alumni to volunteer for addicts or other drug abuse residents in rehabilitation centers. Nevertheless, another issue of concern is once a person volunteers for rehabilitation. However, in the past, he has registered himself as a resident at a rehabilitation center, then when he volunteers; he will be granted immunity as long as he remains in the rehabilitation program without relapse. If the resident relapses, he will be sentenced without further rehabilitation opportunities, and he will be legally processed and have a permanent police record.<sup>48</sup> Basically, most people are reluctant to seek treatment and undergo rehabilitation unless they are caught using narcotics. When a volunteer is caught retaking drugs, this is likely to create a conflict of interest. Service providers want more people to volunteer for treatment, as motivation is critical to success. However, conflicts arise when providers have to be reported to authorities for relapse or get a positive result in a random urine test while on volunteer service. Public trust in counselors and clinical staff will be damaged overall.<sup>49</sup>

<sup>47</sup> Yih-Ing Hser, Christine E. Grella, Robert L. Hubbard, Shih-Chao Hsieh, Bennett W. Fletcher, Barry S. Brown, and M. Douglas Anglin, "An evaluation of drug treatments for adolescents in 4 US cities," *Archives of General Psychiatry* 58, no. 7 (2001): 689-695.

<sup>48</sup> Ihsana Ageel, "Drug Rehabilitation and Practice Dilemmas in the Maldives," *PhD diss.*, The University of Waikato, 2006, p. 30.

<sup>49</sup> Lorenz Böllinger, "Drug law and policy in Germany and the European community: Recent developments." *Journal of Drug Issues* 34, no. 3 (2004): 491-510.

## Rehabilitation with Coercion

A panel of judges issued rehabilitation by coercion or a warrant from law enforcement officials based on the laws and policies required before starting the rehabilitation process at the administering institution. In many rehabilitation cases, residents are considered obedient to undergoing forced rehabilitation treatment. Böllinger<sup>50</sup> also argues that compliance with this coercion may represent only a tactical and realistic adaptation that is somewhat imposing on the resident in certain situations. According to him, this forced rehabilitation is unrealistic and cannot last long in adapting to other situations experienced by residents. Therefore, according to Böllinger, this type of rehabilitation does not have significant implications for the behavior of the post-rehabilitation resident in his new life when he returns to society. This argument makes sense because the ultimate goal of rehabilitation should be to regain self-control and the ability to be able to maintain the highest level of self-will autonomy possible to maximize resident participation in order to coexist well with the community. Thus, Cardol, De Jong & Ward<sup>51</sup> suggest that respect for the resident's self-autonomy in deciding to undergo rehabilitation and the process of self-empowerment in a rehabilitation center should be included in the definition of rehabilitation. Coercive rehabilitation is only legal in some cases and severe controversial crimes and violence cases. In this right, forced rehabilitation treatment for prospective residents is indeed the right choice.

<sup>50</sup> Lorenz Böllinger, "Recent developments regarding drug law and policy in Germany and the European Community: The evolution of drug control in Europe," *Journal of Drug Issues* 32, no. 2 (2002): 363-378.

<sup>51</sup> Mieke Cardol, BA De Jong, and Chris D. Ward, "On autonomy and participation in rehabilitation," *Disability and rehabilitation* 24, no. 18 (2002): 970-974.



But again, according to Böllinger, rehabilitation with any form of coercion, such as that, does not seem appropriate for the rehabilitation of addicts and drug abusers because their rehabilitation is related to a combination of disease and crime.<sup>52</sup>

Furthermore, the implementation of rehabilitation must also pay attention to the code of ethics. The code of ethics is a standard that serves as the primary identifier and directly directs and defines a practicing profession for stakeholders in the implementation of rehabilitation.<sup>53</sup> This code of conduct will serve as a guide for practitioners in implementing various interventions. In addition, the code of ethics also serves as a manifesto to pay attention to how members of the practicing profession define appropriate practice when providing interventions in any treatment to their residents. For each institution administering interventions such as rehabilitation, the institution must have a professional body to regulate implementing interventions. Otherwise, as a result, there is no code of ethics or peer oversight measures to monitor practice and ensure standards of practice by practitioners to residents.

Furthermore, according to the rules and policies in Indonesian customary law, rehabilitation is a series of processes that aim to return to the resident's normal state or restore the most satisfactory condition for a person with mental illness.<sup>54</sup> Rehabilitation is interpreted then, according to the Big In-

donesian Dictionary, as returning to its original position (country, good name); improving other limbs of a person (such as a hospital, disaster victim), etc., to become a helpful person and have a place in society.<sup>55</sup>

According to article 1 number 23 of the Criminal Procedure Code, Rehabilitation is the right of a person to have his/her rights restored in terms of ability, position, and dignity as well as granted at the level of investigation, prosecution or trial because of being arrested, detained, prosecuted or tried without any reason based on law or due to a mistake. Regarding the person or the law applied according to the method provided for in this law." From the above understanding, it can be concluded that rehabilitation is one of the business processes to repair and restore people/individuals to return to normal and reasonable activities. Narcotics rehabilitation concerning narcotics problems is a short-term and long-term recovery procedure for narcotics abuse disorders that aims to change individual behavior and restore it in society.<sup>56</sup>

Based on Article 55 to Article 59 of Law No. 35 of 2009 concerning narcotics, the government, society, and institutions authorized to carry out rehabilitation are authorized to make regulations for implementing medical and social rehabilitation. Narcotics rehabilitation is when addicts receive advice and training from relevant agencies to understand the dangers of narcotics, recover from drug addiction, and continue their social work. According to the National Narcotics Agency, three stages of narcotics rehabilitation must be passed by narcotics addicts:

<sup>52</sup> Lorenz Böllinger, "Drug law and policy in Germany and the European community: Recent developments," *Journal of Drug Issues* 34, no. 3 (2004): 491-510.

<sup>53</sup> Vilia M. Tarvydas, and R. Rocco Cottone, "The code of ethics for professional rehabilitation counselors: What we have and what we need," *Rehabilitation Counseling Bulletin* 43, no. 4 (2000): 188-196.

<sup>54</sup> J.P. Caplin, *Kamus Lengkap Psikologi*, terj. Kartini Kartono (Jakarta: PT. Raja Grafindo Persada., tth.), p. 425.

<sup>55</sup> <http://kbbi.web.id/rehabilitasi>, Accessed on Thursday 27 August 2021 at 01:50 WIB.

<sup>56</sup> Badan Narkotika Nasional, "*Petunjuk Teknis Rehabilitasi Dasar Rawat Jalan*," (Jakarta: Deputi Bidang Rehabilitasi, 2016), p. 4 huruf (i).

1. The stage of medical rehabilitation (detoxification). At this stage, the doctor will check the health of narcotic addicts both physically and mentally. The examination results will determine what drugs are needed for narcotics addicts to reduce withdrawal symptoms. The severity and severity of withdrawal symptoms determine what drug the doctor will prescribe. In this case, the doctor will detect drug addiction.
2. Non-medical rehabilitation stage. At this stage, narcotics addicts will participate in various rehabilitation programs provided by rehabilitation centers/institutions.
3. In the after-care stage, narcotics addicts will be given training according to their interests and talents. Addicts may return to work or school but remain under supervision.

Continuous monitoring and evaluation of the narcotic addiction rehabilitation process are required for each rehabilitation phase.

### **Rehabilitation of Narcotics Addicts from the Perspective of *Maqasid Sharia***

In Islamic history, the application of rehabilitation for narcotics addicts has not been found with certainty. However, this does not mean that Islam does not provide exceptional care for drug addicts.<sup>57</sup> Rehabilitation in the Islamic religion is *islahiyah*, namely how to improve things to return to the religion worth the *maslahah* corridor. The benefit itself is the goal of the *sharia*, whose efforts to achieve it is summarized in the codification of Islamic law. Islamic law with various commands and prohibitions in the concept of *maqasid al-shari'ah* (implementation of Islamic law) views the

commands and prohibitions as having a purpose for the benefit of the *mukallaf*. This concept of benefit guarantees essential things (basic needs), the fulfillment of other general needs (*hajiyyat*), and provides goodness in all areas of life (*tahsinat*).<sup>58</sup>

Basic needs, which are basic needs (*dharuri*), are significant for humans because human life is not perfect if these needs are not met. Religion, soul, mind, wealth, and self-esteem (honor) are included in the *dharuri* level. Five *dharuriyyat* was something that must exist in humans because of Allah SWT commands to strive in its existence and perfection on the other hand, Allah SWT, prohibits actions that can eliminate or reduce one of the five points of the *maqasid al-sharia*

The rehabilitation process for addicts in Islamic law (تأهيل مدمن المخدرات) is a form of prevention and war against social evil in society. Drug addiction is not just a criminal behavior that calls for severe punishment, but the process of spreading narcotics users as a disease in one's social life. Islam teaches one to respect each other and always do good to others, but imprisonment without rehabilitation with intensive procedures has a slight advantage for drug addicts.

From this explanation, it can be concluded that Islamic criminal law recommends the implementation of rehabilitation for narcotics addicts intending to achieve positive things which have been eroded in addicts with the aim that addicts do not repeat crimes in the future and can live healthily and carry out social functions in the future. Community life well with this, it is expected to be an effort to protect the benefit of all elements of a sustainable society.

<sup>57</sup> Sudarsono, *Etika Islam dalam Kenakalan Remaja*, (Jakarta: Rineka Cipta, 1990), p. 91.

<sup>58</sup> *Himpunan Peraturan Perundang-undangan: Undang-Undang Narkotika dan Psikotropika Edisi Terbaru* (Bandung: Fokusmedia, 2013), p. 217.

Looking at the current reality, the author argues that narcotics addicts have violated the existing laws as a whole, be it favorable laws or Islamic laws. They violate existing national and Islamic laws. However, the process for narcotics addicts cannot be punished directly given the prison law. This conclusion is based on psychological theory and the Islamic theory of *maqasid sharia* about how drug addicts or abusers can be treated.

In positive law, the psychological behavior of drug users cannot be stopped immediately. Drug addicts are people who depend on narcotics physically and psychologically. Anesthesia dependence is at the same time a condition characterized by an urge to continue to use increasing doses. If a drug addict is suddenly reduced or dismissed, it will cause physical and psychological symptoms. The psychological theory mentioned above has explained that if a narcotic addict is stopped immediately, it will be hazardous for the addict. So to deal with it, a gradual rehabilitation effort is needed so that narcotics addicts can be separated from dependence forever. The concept of *maqasid sharia* also describes the same thing, where the direct impact of narcotics addicts can be detrimental to physical and mental health and religious beliefs and loss of property due to the nature of drug addiction. The aspect of *maqasid sharia* guarantees protects and protects human interests (benefits).

### 1. *Hifzh al-Din* (Keeping Religion)

In human life, religion is essential. The value of human nature in the teachings of Islam makes the human level higher than animals. Because religion is a human trait, humans must get a sense of peace and security without coercion if they embrace religion. Various types of worship were established to preserve and maintain religious life based on religious values. This

worship is aimed at developing the spirit of religion.<sup>59</sup> And just as the prohibition and harm of narcotics are logically prohibited because it is dangerous to life, this prohibition is also emphasized in Islam because the harm is the same as the harm possessed by *khamr*. As the Messenger of Allah,

حَدَّثَنَا عَبْدُ اللَّهِ بْنُ مُنِيرٍ، قَالَ سَمِعْتُ أَبَا عَاصِمٍ، عَنْ شَيْبِ بْنِ يَسْرِ، عَنْ أَنَسِ بْنِ مَالِكٍ، قَالَ لَعَنَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي الْخَمْرِ عَشْرَةَ عَاصِرِهَا وَمُعْتَصِرِهَا وَشَارِبِهَا وَخَامِلِهَا وَالْمَحْمُولَةَ إِلَيْهِ وَسَاقِيَهَا وَبَائِعَهَا وَآكِلَ ثَمَرِهَا وَالْمُشْتَرِيَ لَهَا وَالْمُشْتَرَاةَ لَهُ . قَالَ أَبُو عِيسَى هَذَا حَدِيثٌ غَرِيبٌ مِنْ حَدِيثِ أَنَسٍ . وَقَدْ رُوِيَ نَحْوُ هَذَا عَنْ ابْنِ عَبَّاسٍ وَابْنِ مَسْعُودٍ وَابْنِ عُثْمَرَ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ

*Narrated Anas bin Malik: "The Messenger of Allah. (ﷺ) cursed the ten people involved in drinking wine: The one who squeezed it, the one who squeezed it, the drinker, the carrier, and the one who brought it, the servant, the seller, the consumption. The price, the person who bought it, and for whom it was being bought."*<sup>60</sup>

Its harm was also prohibited based on *qias*. The scholars equate narcotics with *khamr* because both have the same 'illat of *haram*. Thus, because both have the same 'illat *haram*, Muslims were prohibited from eating, drinking, buying, and selling narcotics in any form was prohibited *khamr*. Moreover, as a consequence, whoever does this sinful will also get rewarded in the hereafter and get various negative impacts in the world, both health problems, mental disorders, moral disorders, and economic problems. So from this, it is clear that the use of narcotics in any form includes actions that do not maintain the maintenance of religion. Therefore, every person who slips with the sin of drug addiction must carry out treatment and detoxification well

<sup>59</sup> Muhammad Abu Zahrah, *Ushul Fiqh*, Jakarta: PT. Pustaka Firdaus, 2013, p. 427-428

<sup>60</sup> Jami` at-Tirmidzi 1295, Book number 14, Hadis 97, Vol. 1, Book 12, Hadis number 1295

and is permissible in Islam.

One of the treatments for narcotics addicts that is encouraged in Islamic law is rehabilitation (تأهيل مدمن المخدرات). Rehabilitation from a religious point of view is a good solution because addiction rehabilitation causes weakness of faith to be avoided through addiction rehabilitation. In other words, rehabilitation is one of the factors that condition a person to remember his God. Addiction can stimulate a person to commit immorality and make his faith eroded. Whoever is weak in faith, his religion is corrupted. In other words, addiction causes weakness in a person to prioritize religion and spirituality in his life. Therefore, good rehabilitation that can maintain one's consciousness indicates *hifzh al-din* (maintaining religion). As in the hadith, it is stated:

عن أبي مسعود عقبة بن عمرو الأنصاري البديري رضي الله عنه قال: قال رسول الله صلى الله عليه وسلم: ((إن مما أدرك الناس من كلام النبوة الأولى: إذا لم تستح، فاصنع ما شئت))؛ رواه البخاري

*From Abu Mas'ud 'Uqbah bin 'Amr Al Ansari Al Badri radiyallahu 'anhu he said: 'The Messenger of Allah. Sallallahu'alaihi wa Sallam said: "Indeed, one of the things that people find from the first prophecy (prophecy) is that if you are not ashamed then do as you please." (HR. Al Bukhari)*<sup>61</sup>

Scholars say that this hadith has two meanings: first, it is an order in the sense of warning. The warning is that if there is no shame, then do what you want because God will reward you for what you have done. Whoever kills shame then knows that to lose shame is to lose faith.<sup>62</sup> The second meaning is a command in the sense of the

<sup>61</sup> Narrated by Bukhari in his Sahih, Kitab Al-Adab, Chapter: "إذا لم تستحي فاصنع ما شئت" Hadith Number 612.

<sup>62</sup> Ali bin Abdil Aziz bin Ali Asy-Syabal, *Masalat al-Iman Dirosah Ta'siliyyah*, (Malaysia: Jami'ah Madinah Alamiyah, 2001), p. 13.

news. The meaning is: that if a person is not ashamed, he can do whatever he wants. The obstacle to doing evil deeds is humility, so someone who does not have humility will be preoccupied with every immoral activity, one of which is using narcotics in the wrong way.<sup>63</sup> So, in conclusion, the rehabilitation of narcotics addicts has an aspect of protecting religion, which is the recovery of a person from immoral behavior.

## 2. The Hifzh an-Nafs (Nourishing the Soul)

The soul is the essence of everything because everything in this world depends on the soul. Therefore, the existence of the soul must be maintained, and its quality must be improved.<sup>63</sup> Protecting the soul means safeguarding the right to a dignified life and protecting the soul from abuse, abuse, and injury.<sup>64</sup> This is in line with the word of God Almighty. Quran Surah Al-Baqarah verse 195 reads:

وَلَا تُفْضُوا بآيِدِيكُمْ إِلَى التَّهْلُكَةِ

*"Do not throw yourself into destruction."*

Protecting the soul is the second order of necessity to maintain the goodness of religion and life in the world. Therefore Allah SWT requires us to guard the soul and preserve it and must not destroy the soul. Therefore, Islamic law explicitly prohibits suicide and self-harm because self-injury is the worst human action in life Allah SWT Further said in the letter An-Nisa verse 29:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ ۖ وَلَا تَقْتُلُوا أَنْفُسَكُمْ ۚ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

*"O you who believe! Do not eat each other's property with vanity (not right), except in trade carried out based on consensual between you. Furthermore, do not kill yourself. Allah SWT. Most Merciful to you."*

### The sermon of the Prophet Muhammad

<sup>63</sup> Amir Syarifuddin, *Ushul Fiqh 2* (Jakarta: Kencana, 2008), p. 235.

<sup>64</sup> Muhammad Abu Zahrah, *Ushul Fiqh* (Jakarta: PT. Pustaka Firdaus, 2013), p. 550.

also corroborates this argument. When he performed Hajj wide He said:

عَنْ أَبِي بَكْرَةَ أَنَّ رَسُولَ اللَّهِ ﷺ قَالَ فِي حُطْبَيْهِ يَوْمَ النَّحْرِ بِمِنَى فِي حَجَّةِ الْوَدَاعِ: إِنَّ دِمَاءَكُمْ، وَأَمْوَالَكُمْ وَأَعْرَاضَكُمْ حَرَامٌ عَلَيْكُمْ كَحُرْمَةِ يَوْمِكُمْ هَذَا، فِي شَهْرِكُمْ هَذَا، فِي بَلَدِكُمْ هَذَا، أَلَا هَلْ بَلَغَتْ مَتَقُّنٌ عَلَيْهِ

*From Abu Bakrah radiyallahu'anhu that the Messenger of Allah. Sallallahu' alaihi wasalam said in his sermon on the day of Nahar - namely the feast of the Sacrifice, in Mina in performing Hajj wada' the last pilgrimage for him shalallahu 'alaihi wasalam as an excuse: "Indeed our blood, your wealth and honor, all of your honor is forbidden to be violated as the sanctity of your day' Eid al-Adha- in your mouth and your country. Remember, have I not conveyed?" (Muttafaq' alaih).<sup>65</sup>*

The meaning of some of the verses and hadiths above is that narcotics if used by humans will impact the destruction of the soul and loss of common sense. So, the main factor that causes narcotics to become something harmful is the obligation of Allah SWT and Islamic law to maintain physical health. One solution to cure an addict of the effects of narcotics use is rehabilitation. This rehabilitation implements detoxification of an addict to be in excellent physical and mental condition. Rehabilitation, in other words, is an activity to protect the soul, both physically and mentally, so rehabilitation is one of the efforts to protect the soul.

### 3. *Hifzh al-'Aql* (Maintaining Intellect)

Reason is a significant subject in human life because human reason is different from Allah's creation other. So humans are commanded to take good care of it and improve its quality by studying or doing something worthwhile. At the same time, Allah SWT strictly prohibits all forms of efforts that will cause damage or eliminate the function

of reason, one of which is consuming narcotics or drinking liquor.<sup>66</sup> This is because of how important it is in maintaining reason.

Allah SWT created humans with various advantages and privileges as well as perfection. This feature is what distinguishes humans from other creatures. One of the main features is the human mind. Therefore, Allah SWT, a man's creator, ordered that humans guard and care for their minds. Furthermore, at the same time, Allah set. Forbid any human activities that damage the mind and eliminate the common sense (إتلافه ( والإخلال به). Therefore, Allah SWT stipulates the limit of the permissible use of narcotics only in the fields of medicine and research. Because the use that exceeds clinical levels can cause the balance of reason to be lost, this is contrary to our obligation to guard the mind against anything that can damage it because reason is needed as a standard of human understanding and knowledge.

In this case, Islam commands the safeguarding of the objectives of human law (*maqasid sharia*), *hifzh al-'aql*. So all efforts aimed at restoring the balance of mind of narcotic addicts are in line with the objectives of *sharia*, one of which is the rehabilitation of narcotics addicts. Therefore, all elements of the rehabilitation officer must ensure that the rehabilitation carried out can indeed restore the balance of mind of former users so that they can distinguish between good and evil and halal and haram. If the rehabilitation process was good, the addict who applies it will positively impact the mind.

### 4. *Hifzh al-Nasl* (Caring for descendants)

The meaning of descendants, in this case, is descendants within the scope of the family. Islam commands its followers to maintain

<sup>65</sup> Narrated by Bukhari in his Sahih, Kitab Al-Hajj, Chapter "*Khutbah ayyam manna*," No Hadith 1739.

<sup>66</sup> Amir Syarifuddin, *Ushul Fiqh 2*, (Jakarta: Kencana, 2008), p. 236.



lineage to realize a happy life in this world and the hereafter. So in order to maintain the lineage of the Islamic religion, it provides a legal marriage solution and avoids adultery or anything that gives rise to the cause of adultery.<sup>67</sup>

The use of narcotics has a bad impact which results in the loss of mental control over physical and lust as well as the erosion of the morals and conscience of narcotic addicts. There is a lot of data that proves that narcotics addicts have a great opportunity to commit immoral and immoral crimes.

Even though Islam has forbidden humans to commit immorality caused by any reason, including the use of narcotics, through the rehabilitation program, families and parents are required to report all activities of addicts to the authorized officer. This program also focuses on observing the actions of addicts during quarantine. This program includes two interrelated things. First: health rehabilitation that will ensure the physical health of addicts from various diseases, both diseases that can worsen the potential of offspring. And the second is social rehabilitation which trains patients to control themselves in interacting with the community.

Therefore, both types of rehabilitation can distance the patient from the factors that cause the loss of self-control. Rehabilitation in some countries sometimes also requires patients to be under the supervision of officers through several wiretapping devices to ensure patients do not commit acts that are detrimental to society.<sup>68</sup> The spirit brought by this rehabilitation is following the word of God Almighty. Surah Al-Isra verse 32:

وَلَا تَقْرَبُوا الزَّوْجَىٰ إِنَّهُ كَانَ فَاحِشَةً وَسَاءَ سَبِيلًا

<sup>67</sup> Amir Syarifuddin, *Ushul Fiqh 2*, p. 239.

<sup>68</sup> Dhanya Mahesh, "The Twenty-Four Hour Counselor: An Overview of Smartphone Applications to Combat Drug Addiction." IYNA, p. 19.

*And do not approach adultery; (adultery) is indeed a heinous act and a bad way.*

So basically, narcotics addiction can stimulate immoral behavior from narcotics addicts so that the psychological instability of addicts can plunge them into bad deeds such as adultery. Therefore, narcotics addiction can be described as an act of approaching adultery. So that rehabilitation which is a therapy that can treat patients from addiction, can also be considered as a therapy that keeps patients from immoral or immoral acts such as adultery.<sup>69</sup>

### 5. *Hifzh al-Mal* (Taking Care of Wealth)

Taking care of wealth is one of Allah's gifts. To mankind, Allah SWT ordered his people to guard all that Allah SWT. Leave humanity to destroy property taking other people's property in a wrong way must be prevented and avoided. Muslims are required to converse with fellow human beings correctly and in accordance with Islamic law. Not only that, Muslims are encouraged to cooperate in buying and selling transactions, leasing, or other forms of transactions in a way that Allah SWT following. Make it lawful not by fraudulent means such as buying and selling narcotics.<sup>70</sup>

Indeed, Islam encourages the welfare of the people, the prosperity of the people, and the financial independence of each individual. Islam makes wealth a pillar of life because the community can realize benefits in *muamalah*. As Allah SWT says in the Qur'an Surah Al-Hasyr verse 7:

... كَيْ لَا يَكُونَ دُولَةً بَيْنَ الْأَغْنِيَاءِ مِنْكُمْ ۗ ...

<sup>69</sup> Stelios Stylianou, "The role of religiosity in the opposition to drug use," *International Journal of Offender Therapy and Comparative Criminology* 48, no. 4 (2004): h. 429-448.

<sup>70</sup> Jaser Auda, *Membumikan Hukum Islam Melalui Maqasid Syariah*, translated by Rosidin dan Ali Adl el-Mun'im, (Jakarta: Mizan, 2015), p. 191-192.

... "so that the treasure does not only circulate among the rich among you"...

According to Quraish Shihab, *daulah* means something that circulates and is obtained after another. In this case, it is the property owned. In the *Jahiliyah* tradition, tribal chiefs monopolize property originating from infidels (*fai*). At the same time, the circulation of assets should be distributed to all community members in need. If it was *qiyas* with modern times, someone who has excess wealth should spend this wealth for people in need instead of using it to buy or trade illicit goods such as narcotics. Because after all, many studies prove that drug addicts are rich people who have wealth.<sup>71</sup> Not only that, the money from buying and selling narcotics is also included in the sustenance that is not *tayyib*; this is contrary to the word of Allah SWT surah Al-Baqarah verse 172:

يَا أَيُّهَا الَّذِينَ آمَنُوا كُلُوا مِن طَيِّبَاتِ مَا رَزَقْنَاكُمْ وَاشْكُرُوا لِلَّهِ إِن كُنتُمْ إِيَّاهُ تَعْبُدُونَ  
O you who believe! Eat the excellent sustenance that We have given you and be grateful to Allah if you only worship Him.

In this life, Allah SWT ordered humankind to seek sustenance lawfully, so seeking maintenance from the sale and purchase of narcotics both those who sell and those who buy is an unlawful sale and purchase that follows the steps of the devil.<sup>72</sup> Narcotics and money from the sale and purchase are real examples of sustenance forbidden by Allah SWT, so every individual should avoid it. As Allah SWT said in the letter al-Baqarah verse 168,

يَا أَيُّهَا النَّاسُ كُلُوا مِمَّا فِي الْأَرْضِ حَلَالًا طَيِّبًا وَلَا تَتَّبِعُوا خُطُوَاتِ الشَّيْطَانِ إِنَّهُ لَكُمْ عَدُوٌّ مُّبِينٌ

O, people! Eat from (food) that is lawful and good that is found on earth, and do not follow the devil's steps. Indeed, the devil is a natural enemy for you.

Islam allows *halal* trading activities and brings benefits to humankind. Islam forbids trade that brings elements of harm, injustice, exploitation, deception, or offering forbidden good because the effect will cause damage to others. Therefore, the sale must be based on applicable law and must also comply with the principle of legality. So that buying and selling illegal narcotics is an act that is contrary to the regulation of *maqasid sharia*, they are *hifzh al-'aql*, *hifzh nafs*, and *hifzh al-mal*.

Therefore, rehabilitation that facilitates patients with various programs that control the desire and dependence on consumption and buying and selling narcotics (illegal drug trafficking) is a therapy that supports Allah's commands for *hifzh al-nafs* and *hifzh al-mal* control oneself from buying and selling and consuming illicit goods such as narcotics.

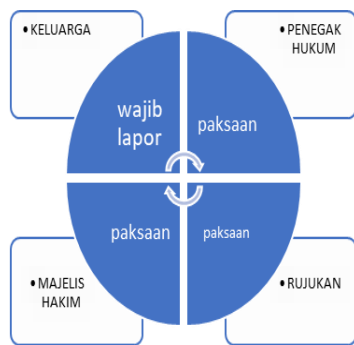
## Positive Legal Perspectives and *Maqasid Sharia* in Narcotics Resident Rehabilitation

### 1. There is no Reach Out for Prospective residents

The admission flow for narcotic addict resident candidates at BABESREHAB BNN Lido West Java is only classified into four sources, they were:

<sup>71</sup> Stephen EG. Lea, and Paul Webley, "Money as tool, money as drug: The biological psychology of a strong incentive," *Behavioral and Brain Sciences* 29, no. 2 (2006): p. 161-209.

<sup>72</sup> Syafar Alim Siregar, "Pengedar Narkoba Dalam Hukum Islam," *Jurnal Al-Maqasid: Jurnal Ilmu Kesyariahan dan Keperdataan* 5, no. 1 (2019), p. 111-124.



**Figure 2** Flow of Receipts at BABESREHAB BNN Lido West Java

So it can be said that, in the admission system for narcotic addicts, institutions and practitioners who carry out rehabilitation interventions at the BABESREHAB BNN Lido West Java deny the existence of acceptance of resident candidates who are obliged to report who comes to write themselves by coming in person and providing resident outreach services. This was also confirmed by one of the nurse’s officers at BABESREHAB BNN Lido West Java, who explained that there had never been a drug user or addict who had come alone to the institution to carry out rehabilitation. Most of them come accompanied by relatives or parents. Field observations also confirmed traces of resident resistance on the door showing traces of prying caused by the resident throwing a tantrum to escape from the initial reception area at BABESREHAB BNN Lido West Java.



**Figure 2** BABESREHAB BNN Lido West Java does not provide a pick-up service for prospective residents.

Whereas according to the Regulation of the Minister of Health of the Republic of Indonesia number 4 of 2020 concerning the Organization of Institutions Recipient of Compulsory Reporting, Article 1 reads,

Compulsory Reports are self-reporting activities carried out by narcotic addicts who are of sufficient age to institutions receiving Compulsory Reports to obtain treatment and treatment through medical rehabilitation. The phrase “or the family and/or parents or guardians of narcotic addicts who are not old enough to the institution receiving the Compulsory Reporting” should not be the reason why BNN eliminates the *Reach out* for addicts. Because drug addicts are not necessarily around their families who can help deliver even most addicts who are under the influence of narcotics will be challenging to handle by the family. Because not all people in this context, families know how to deal with a narcotic addict. Service should *reach out* have been held because it will spearhead the initial acceptance of prospective residents. This service will help families; addicts who do not have a family can also be picked up without thinking about the difficulty of finding friends who have to take them.

This is very disproportionate when compared to prospective residents who are rehabilitated through coercion in the investigation, prosecution, or trial, or who have received court decisions/decisions,<sup>73</sup> residents with status based on pressure were immediately picked up and even delivered by the officers.

Almost all of the legal basis for rehabilitation, including Law no. 11 of 2009 concerning Social Welfare, Law Number 35 of 2009 concerning Narcotics, Law no. 36 of 2009 concerning Health, Government Regulation Number 25 of 2011 concerning Mandatory Implementation, Reporting Narcotics Addicts, Presidential Regulation Number 23 of 2010 concerning the National Narcotics Agency, Regulation of the Head of

<sup>73</sup> See law number 8 of 1981 concerning the Criminal Code (KUHP), which regulates Rehabilitation, as stated in Article 97 paragraphs (1) to (3).

the National Narcotics Agency Number 11 of 2014 concerning Procedures for Handling Suspects and/or Defendants of Addicts Narcotics and Narcotics Abuse Victims, National Narcotics Agency Regulation Number 24 of 2017 concerning Rehabilitation Service Standards for Narcotics Addicts and Narcotics Abuse Victims. Regulation of the National Narcotics Agency Number 01 of 2019 concerning the Implementation of Rehabilitation Services at Rehabilitation Institutions within the National Narcotics Agency, there is no confirmation of the provision of reach out services for drug addicts to get their right to rehabilitation. Supposedly with a clause on self-reporting activities carried out by narcotics addicts, it should be a juridical basis for holding *reach out* for prospective residents in all Institutions Recipient of Compulsory Reporting.

If it is considered from the perspective of Islamic law, the provision of Reach Out (pick-up) services for prospective narcotic addict residents is a necessity, this is based on *fiqihyah* rules as follows:

الحاجة تنزل منزل الضرورة

*Secondary needs (al-hājah) can rise to the primary level (al-darūrah)*

The harm must be eliminated. In the context of accepting a rehabilitation resident candidate, the word *الحاجة* in this rule may include:

- a. The need for BNN officers and practitioners to be allocated to pick up addicts who are addicts alone, or upon complaints from family or community,
- b. Not all addict families know the protocol for handling drug addicts who are in normal or emergency situations.
- c. Not all addicts have relatives who can take them or have private transportation facilities to reach the reha-

bilitation center

- d. Optimization of ambulances and resident transport vehicles at the rehabilitation center can double function as transportation for prospective resident Reach Out

In addition, *الضرر* in this context includes the harm caused by drug guides, if the prospective resident is under the influence of bad narcotics when leaving for BNN without the supervision of officer's medical personnel and security officers, the need for medical officers and counselors is mandatory. In addition, bringing and delivering narcotics addicts by public transportation without the supervision of social workers or BNN security can cause wider harm. In addition, the provision of reach out services for prospective residents is an actualization of the fundamental rights of every Indonesian community, including those who are marginalized such as narcotics addicts. The right to reach out or pick up to the rehabilitation service center is grounded. As reads in article 5 paragraph (3) of Law Number 39 of 1999 concerning Human Rights, "Everyone belonging to a vulnerable community group has the right to receive more treatment and protection concerning his specificity." The state and its components, including practitioners in the rehabilitation center, are obliged to ensure that prospective residents arrive at the institution in good condition and that the people around them are safe from actions that the effects of drug addiction can cause at any time through the provision of reach outs. In addition the second principle of Pancasila also reads "just and civilized humanity" and the fifth principle "social justice for all Indonesian people." These two precepts clearly state that in the human dimension, humans have fundamental rights. This basic right is firmly attached to the identity of human humanity.<sup>74</sup>

<sup>74</sup> H.A.W, Widjaja, *Penerapan Nilai-Nilai Pancasila & HAM di Indonesia*, (Jakarta: PT Rineka Cipta, 2000), p. 70.

## 2. The Dilemma in Forced Rehabilitation

The Flow of Admission for Resident Candidates in the Guidebook for Implementing Rehabilitation Services at Rehabilitation Centers/Rehabilitation Centers The National Narcotics Agency emphasizes that residents are required to report to IPWL (Recipient Institution for Compulsory Reporting) under voluntary or coercive circumstances such as coercion by relatives, community or family, pressure over the process of investigation, prosecution or trial, as well as those who have received a court decision/decision. Based on the perspective of Islamic law, this report is a form of ta'zir given by the judge to narcotics addicts. This is based on one *fikhiah* rule which read,

لا ضرر ولا ضرر

*Do not experience harm, and do not cause damage.*

However, the rehabilitation approach with coercion or without volunteering in many cases becomes one of the obstacles in the effectiveness of the implementation of rehabilitation. As one of the methods to restore for residents, the word "coercion" in his understanding is not a single well-defined entity. The word coercion can be matched with "forced treatment," which is far from consistent in meaning, such as "forced," "mandatory," "involuntary" legal pressure, and "criminal justice referral." All of these words have been used in various ways in previous studies. The term mandatory is also used interchangeably in the same article in multiple studies.<sup>75</sup> In the context of rehabilitation, 'coercion' can refer to acts that are 'involved with the criminal

justice system'.<sup>76</sup>

Regulation of the Minister of Health of the Republic of Indonesia number 4 of 2020 concerning the Organization of Institutions Recipient of Compulsory Reporting, article 1 according to all rehabilitation practitioners such as nurses, psychologists, addiction counselors, rehabilitation officers supporting vocational instructors with a working period of one year, one rehabilitation officer supporting Mental Advisors, and Major on duty agreed that the mandatory reporting activities are self-report activities carried out by narcotics addicts voluntarily. According to the author, this perspective is too narrow a thought. Because the word obligatory itself is an entity, that can also be understood as an encouragement for coercion. As Anglin *et al.* (1998) state, legally coercive rehabilitation is a poor investment to devote expert resources to individuals who are unlikely to change because those who are coerced have little or no motivation to change during the recovery process. Furthermore, in situations where available rehabilitation treatment slots are minimal, policymakers can violate the notion of distributive justice by not providing treatment to addicts who do not want rehabilitation (even though residents may benefit significantly from rehabilitation) because residents like this, they do it but at the same time, they don't want the treatment. However, other researchers have a different opinion. They argue that some chronic drug addicts will enter and remain in therapy without internal motivation and that legal coercion is also justifiable. Because the intimidation of his position is the same as other internal motivations for residents to undergo narcotics rehabilitation

<sup>75</sup> David Farabee, Michael Prendergast, Jerome Cartier, Harry Wexler, Kevin Knight, and M. Douglas Anglin, "Barriers to implementing effective correctional drug treatment programs." *The Prison Journal* 79, no. 2 (1999): 150-162.

<sup>76</sup> Inciardi, James A. "Compulsory treatment in New York: A brief narrative history of misjudgment, mismanagement, and misrepresentation," *Journal of Drug Issues* 18, no. 4 (1988): 547-560.



treatment.<sup>77</sup> Residents with legal pressure still have to get rehabilitation rights to actualize their rights to distributive justice. In addition, this is also due to the environmental need for controlling drug abuse and addiction by providing rehabilitation for narcotics addicts by force, which can benefit society as a whole. So that the family or guardian must bring narcotics addicts and abusers into care to protect and prioritize the interests and welfare of the general public.<sup>78</sup>

### 3. Dilemma in Vocational Development

One of the obstacles to the effectiveness of rehabilitation for residents who use narcotics is the inconsistency of the methodology used in the implementation system of repair for residents at BABESREHAB BNN Lido, West Java. Implementing rehabilitation services at BNN Rehabilitation Centers and Centers requires human resources, namely rehabilitation officers who have adequate competence are trained and certified in their respective fields. Human resources in rehabilitation services can be divided into three components, namely (1) medical services, (2) social services, and (3) supporting services or general divisions. Social services are held by psychologists, psychology graduates, counselors, assistant counselors, social workers, vocational instructors, tutoring facilitators, and mental and spiritual coaches. As mandated by the Minister of Social Affairs regulation no. 26 of 2012 concerning Standards for Social Rehabilitation of Drug Abuse Victims, the main task of social services is to provide psychosocial interventions, assist residents, and facilitate family liberation to support recovery. In

addition, social services also provide religious assistance and job skills to residents, which is enough to highlight the author's attention to implementing social services. However, in its implementation, BABESREHAB BNN Lido Jawa Barat only has three female vocational instructors. The number of residents that must be fostered is more than 200 male residents and only five female residents.

Conceptually, after rehabilitation, former residents should be active in the community with skills trained at the institution. They must be able to become good human beings. Indeed, cooking activities, handicrafts are not only activities that can be done for women only, men can also cook for their needs at home? However, the procurement of vocational officers (instructors) and the activities held should be in accordance with the Social Rehabilitation Standards for Victims of Drug Abuse in the Minister of Social Affairs regulation no. 26 of 2012 and Regulation of the National Narcotics Agency Number 01 of 2019 concerning the Implementation of Rehabilitation Services at Rehabilitation Institutions within the National Narcotics Agency, that vocational trainers and/or entrepreneurship coaching must provide training and assistance in the form of, (1) increasing the development and distribution of Interests, Talents, and Potential, (2) Creating Productive Activities, (3) Accessing Economic Business Capital, (4) Self-reliance Assistance, (5) Production Facilities and Infrastructure Assistance, (6) Developing Marketing Networks.<sup>79</sup>

In the perspective of Islamic law it can also be referred to one as stated in the rules of fiqh:

الأمر بمقاصدها

<sup>77</sup> M. Douglas Anglin and Yih-Ing Hser, "Criminal justice and the drug-abusing offender: Policy issues of coerced treatment," *Behavioral Sciences & the Law* 9, no. 3 (1991): 243-267.

<sup>78</sup> M. D. Anglin and T. H. Maugh, "Overturning myths about coerced drug treatment," *California Psychologist* 14 (1992): 20-22.

<sup>79</sup> Regulation of the Director-General of Social Rehabilitation No. 5 of 2021 concerning Operational Guidelines for Elderly Social Rehabilitation Assistance.

### *Everything depends on the goal*

It means that the vocational activities that residents should get while undergoing rehabilitation at the BABESREHAB BNN Lido West Java are not just doing or making skills for fun, but also having to comply with the standards and objectives set out in the applicable regulations and policies. That is, making vocational training opportunities an opportunity to motivate residents in terms of skills that can be used to get along, find work and develop them to be better in the community later. Like salon activities, this activity can develop their skills for female residents if they want to open a beauty salon. However, for male residents, the need for male vocational instructors is also mandatory. Because men's salon activities require special training for male barbershop jobs, this type of barrier has been mentioned by Farabee *et al.* in their research. Many obstacles can hinder the success of the rehabilitation program and its implementation, including

- a. negligence in identifying residents, assessing, and providing referrals,
- b. weaknesses in recruiting and training nursing staff in the medical rehabilitation process,
- c. Transferring correctional staff.

In the process of social rehabilitation, (4) excessive dependence on institutional sanctions compared to therapeutic sanctions, (5) weak follow-up care for residents, and (6) forced rehabilitation of residents.

#### **4. Limited Number of Functional Personnel**

A total of more than 7 practitioners interviewed in this study complained about the limitations and lack of functional staff working at BABESREHAB BNN Lido West Java, however, according to Diah<sup>80</sup> one

ofone Head of the General section did not agree with the opinion of practitioners who argued that one of the shortcomings that must be improved was the shortage of human resources in the functional work environment of BABESREHAB BNN Lido West Java. According to Diah, when this institution was first established, only 5 people worked in this institution to handle more than tens of residents. Now the number of staff and functional practitioners has reached 300 staff that serves and assist the implementation of the rehabilitation process for residents of which there are about 200 male residents and only 5 female residents.

Based on the analysis of fikhiyah rules on the issue of the limited number of functional staff, the authors see that the staff must understand that the number of practitioners and staff availability is not the main problem in the effectiveness of rehabilitation. However, demands for stand-by work or demands that form the habit of working for 24 hours among rehabilitation practitioners who became the initial spearhead when BABESREHAB BNN Lido West Java was established, inevitably have been recognized as customary law/custom is a law that must practice.

Staff complaints about a shortage of human resources are a form of illustration of the inability and ineffectiveness of existing staff performance. However, if we examine it more deeply, the problem actually meant by the staff is that the portion of work or working time of the human resources of the BABESREHAB BNN Lido West Java organization which is now in the structure is not ideal. Because every staff definitely hopes that their work can go according to what is planned and dreamed of, for example a

<sup>80</sup> Diah Kurniawati is an Addiction Counselor at the BABAESREHAB BNN Lido West Java, and the in-

terview will be held on Friday 11 November 2021, 10.30-11.15 WIB at the BABESREHAB Main Meeting Building BNN Lido West Java.

counselor whose job is to take care of residents, on duty staff is to take care of the house, wake up early, bring resident groups to seminars, every staff, both structural and functional, all expect everything the agenda goes according to their respective portions. However, if you look at the needs, of course there is a lot of need for additional personnel and roles from each party to make the rehabilitation process a success.

### 5. Resident's Motivation

There were several residents who conveyed incorrect information to staff. This shows the erosion of the motivational spirit for change that exists in some residents. As stated by Dian, that, there may be some residents who provide incorrect information to the researchers during the interview session. Such as the problem of a counselor who has never visited a resident, while the counseling has been repeated or indeed the resident has passed the period of being able to do counseling. According to Dian, in terms of organizational management of the BABESREHAB BNN Lido West Java institution, residents do things like this only because residents want to do their personal affairs for counseling such as calling their lover, not using counseling to restore their spirits and minds. They scapegoated counseling for their romantic desire with the excuse that they did not get a regular counselor schedule, even though based on the evaluation of the counseling that was carried out, the resident only wanted to call his girlfriend during the counseling. Basically in the rehabilitation program at BABESREHAB BNN Lido West Java, residents are facilitated to fill out clips, where if the resident wants to see a doctor, the resident can directly visit. The visit schedule can also be adjusted to the flexibility of the resident's daily schedule.

One of the motivations that encourage

patients to recover is the presence of addiction counselors in each resident's rehabilitation journey at BABESREHAB BNN Lido West Java. Diah Kurniawati explained that her job is to accompany the resident from the beginning of admission, the addiction counselor will conduct an assessment of the resident to assess the severity, both from the mild addiction stage which does not require hospitalization, but only needs outpatient treatment or vice versa. If the resident enters the moderate to severe stage, then proceed with the detoxification inpatient stage. Then the initial stages of examination are carried out, if these stages have been carried out, the resident will get supervision by medical rehabilitation officers. After going through the detoxification and stabilization stages, the addiction counselor will assist the resident and play a role in building report cards for the resident, making a treatment plan with the resident, if the resident has reached an agreement on the social rehabilitation plan offered, the resident can start this stage with the primary program. After completing this stage, counseling with residents will be carried out at least once a week. However, if the resident really needs a more intensive meeting, then it is allowed to provide special needs counseling 2 times per week. Counseling consists of three types, firstly individual counseling, group counseling, where residents are gathered together with other residents under the same resident responsibility and then discuss certain interesting topics where fellow residents provide feedback such as discussions. Third, the resident must get family support counseling. As explained in the

Regulation of the Minister of Health of the Republic of Indonesia Number 4 of 2020 concerning the Organization of Mandatory Reporting Acceptance Institutions, that BNN must implement Medical Rehabilitation service standards at public health cen-

ters and primary clinics (First Level Health Facilities/FKTP), hospitals and main clinics (Advanced Level Referral Health Facilities (FKRTL), and other institutions must also carry out medical rehabilitation for addicts, abusers, and victims of Narcotics abuse by providing (a) basic drug addiction counseling facilities (b) family counseling and (c) group counseling very suitable for the needs of *hifzh al-'aql*, *hifzh al-nasl*, *hifzh al-nafs* in *maqasid sharia*.

## 6. Lack of Awareness of Legal and Policy Context

In Indonesia, before addicts, abusers, and victims of narcotics abuse undergo rehabilitation, they must undergo medical rehabilitation, preceded by a mandatory reporting process. They even print promotional flyers that can be taken and distributed widely to the general public. Even the National Narcotics Agency (BNN) in almost all of Indonesia also claims that if a drug user reports him to undergo rehabilitation, it will be free of charge and will be free from the law. If analyzed in a formative manner, rehabilitation should be guaranteed by the State. More precisely, this is guaranteed by Articles 54 and 55 of the Narcotics Law Number 35 of 2009. Even if looking closely at the clauses in this article, drug users who report themselves are either adults or families of addicts who report their children, as stated in Articles 54 and 55 of the Law. Number 35 of 2009 must be rehabilitated and not prosecuted.

Drug rehabilitation in Indonesia is outpatient and inpatient, some are privately owned, and the government owns some. The National Narcotics Agency (BNN), as the leading sector in drug handling, has several inpatient rehabilitation center, one of which is the BABESREHAB BNN Lido West Java. BABESREHAB BNN Lido West Java is the BNN's first and largest rehabilitation center. This place serves rehabilita-

tion for addicts and drug abusers, both those who come voluntarily (Voluntary) and those with legal cases (Compulsory). The drug rehabilitation program undertaken by the Compulsory resident at BABESREHAB BNN Lido West Java is also no different from drug rehabilitation for a voluntary resident. All receive services and treatment that are equally professional and free of charge. Rehabilitation fee exemption facility, this is in line with one of the fiqh rules:

الحاجة تنزل منزلة الضرورة

*Secondary needs (al-hājah) can rise to the primary level (al-darūrah).*

All addicts in Indonesia are citizens with disabilities or special needs, namely rehabilitation provided by the State. Even the BABESREHAB BNN Lido West Java psychologist also emphasized that the funds disbursed by the government for rehabilitation are very large, around 400 trillion rupiahs per month. Nevertheless, this cannot be said to be completely true. Because based on the author's search at BABESREHAB BNN Lido West Java, on the pharmaceutical sides of the drugs available at BABESREHAB BNN Lido West Java run out, or there are types of drugs that are not available in the BABESREHAB BNN Lido West Java warehouse, then the resident must pay for the drugs. Even according to nurse aji, the family has discussed this at the initial reception before entering rehabilitation. If the resident cannot afford to buy medicines that are not facilitated there, superiors will discuss them, and the costs will be covered by practitioners who want to help. The funds do not come from the drug budget in the BABESREHAB BNN Lido West Java.

However, Dian denied this, who said that the limitations of pharmaceutical drugs provided by BABESREHAB BNN Lido were because the BABESREHAB BNN Lido

West Java pharmacy itself could not meet all medicines prescribed by the BABESREHAB BNN Lido West Java doctor. BNN Lido pharmacy is still weak in its management. Karen did not reset or communicate with the doctor what kind of addicts who came to BNN Lido needed. That should have been estimated and reset earlier, considering that the institution had announced claims for free treatment for all types of narcotic drug dependence. Dian added that if there is a significant need in a year, it will be updated in the budget list for the drugs. According to the author, this does not make sense because most of the rehabilitation services carried out is 6-month programs. If you wait for a re-budget in one year, it is clear that you have entered two periods, and the resident who needs the drug is no longer being cared for in babes. Especially if the resident is a resident who is in a detoxification program that lasts a maximum of 14 days, the need for drugs at that time must be met as soon as possible. Residents cannot wait for a budget change to get medicine for the next year.

Moreover, humans are experiencing changes, the environment, climate, technology is getting more sophisticated, health research continues to develop, the latest treatments can continue to emerge because medicine and pharmacy are dynamic things, it is possible for certain diseases to change the way of medicine and to handle for one year even faster than that too can be. So that drug budgeting by waiting for a one-year policy change is a waste of time and futile. According to the patient's period, what should be made of the availability of drugs is an emergency policy. If the patient needs the drug, the policy can also follow the patient's needs.

## **7. Islamic Mental Development Curriculum is not yet comprehensive.**

BABESREHAB BNN Lido West Java carries out various methods in the rehabilitation recovery process. Not only TC is used, but also the religious approach is used. Therefore, how important is the role of religion in the rehabilitation of narcotics addicts. In providing the recovery process, the special Islamic spiritual, mental development room has established a curriculum to facilitate the rehabilitation process. However, this curriculum is not a standard in its activities. In applying Islam in the classroom with residents, mental coaches can provide material according to their conditions. The content of the curriculum refers to exercises so that residents can return to society.

However, the author believes that the mental development curriculum that has been carried out since 2014 is incomplete in the rehabilitation recovery process. The religious curriculum does not stir up the discussion of morality, and this should be very important for residents so that they can understand their religion well. If he understands his religion well, it will be easy to carry out his orders well.

Therefore, it should be urgently needed to update the knowledge outlined in the BABESREHAB BNN Lido West Java curriculum to adapt to the times and Islamic law, considering the important role of religion in the recovery process as many previous studies have reported that religion can protect its adherents against drug addiction in Islamic countries. Also Miller notes that, religion generally protects its adherents, from drug addiction. Especially Islam, Muslims also pray five times a day do not engage in prohibited activities such as drug use. Part of the spiritual teachings of Islam is to maintain the relationship between family members. Even in Islamic



culture, they keep their families away from drugs by order between communities. Because narcotics can keep a person away from religion and may also keep them away from family and social networks. Islam has become a separate culture and is fundamental to the social structure of Muslim society. So the use of narcotics will result in the additional stigma that is illegal, negative, and contrary to Islam.

## Conclusion

This study concludes that rehabilitation in Indonesia still requires attention from all parties, government, private, and family, in solving all obstacles and challenges in its implementation. The allegation that the Lido National Narcotics Agency Rehabilitation (BABESREHAB BNN Lido West Java), which the government directly controls, has contributed to rehabilitation success following applicable laws, policies, and *maqāshid sharia* have not been fully confirmed. This study found several problems in the implementation of rehabilitation, namely, (1) there is no reach out for prospective rehabilitation residents, (2) there are still dilemmas in forced rehabilitation, resident motivation, and vocational training, (3) a limited number of functional personnel, (4) lack of awareness legal and policy context, (5) Islamic mental development curriculum is not yet comprehensive.

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