

Juridical review of the implementation of social rehabilitation for TNI soldiers who abuse Class I Narcotics (Case study of Court Cassation Decision Agung Number 215 K/Mil/2019)

I Gede Sastrawan
Military Law College, Indonesia
gede.sastrawan@gmail.com



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Abstract

Purpose: conduct research to find out the implementation of social rehabilitation in the military justice environment.

Research methodology: In order to achieve scientific research, the methodology used is normative juridical using secondary data by researching the legal principles and elaborated with primary data, namely the results of interviews with the National Narcotics Agency of Sidoarjo Regency and the Military Correctional Institution III Surabaya.

Results: The implementation of social rehabilitation in fact cannot be carried out according to the court decision, because the National Narcotics Agency of Sidoarjo Regency does not have social rehabilitation services and facilities, so medical rehabilitation in the form of consling is carried out as an alternative. The implementation of rehabilitation for the military has not been specifically regulated in the military judicial environment, so it is necessary to make regulations in the form of a TNI Commander Regulation that regulates the procedures, procedures, and mechanisms for the implementation of rehabilitation for the military.

Keywords: *Military, Rehabilitation, Narcotics Crimes*

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1. Introduction

Drug abuse has a serious impact on an individual's health, can create destructive physical and psychological dependence. The danger is even worse when there is abuse among artists, politicians, and even among law enforcement, including members of the TNI. The handling of these problems within the TNI there are legal rules that expressly limit TNI members to all acts that are violations, crimes, or prohibited in the context of law enforcement against TNI members in the military environment. The provision of threats in the form of criminal sanctions against violators is also regulated in the military criminal law, TNI members are not only subject to military regulations, but as citizens are also subject to the rules that apply to all Indonesian citizens in general (Hutapea, 2016).

Law Number 35 of 2009 concerning Narcotics states that "Narcotics addicts and victims of narcotics abuse are obliged to undergo medical rehabilitation and social rehabilitation". Continued in Article 127 paragraph (3) of Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics states that, "In the event that the Abuser as referred to in paragraph (1) can be proven or proven to be a victim of Narcotics abuse, the Abuser is obliged to undergo medical rehabilitation and social rehabilitation".

Medical rehabilitation, as mandated by law, includes a series of medical measures and processes aimed at addressing the dependency and health impacts arising from narcotic use. These rehabilitation programs can involve detoxification, substitution treatment, as well as medical and psychological therapy. The goal is to restore the physical and mental health of Narcotics addicts, as well as help them overcome the dependency that has been formed. Social rehabilitation, in addition to that, is also an integral part of this approach (Tarasari & Nasywa, 2021).

Social rehabilitation includes a variety of activities and interventions aimed at assisting drug addicts and victims of drug abuse in rebuilding their social lives (Ramadhani. D, Shafira, Dewi, Jatmiko, & Warganegara, 2024; Roy, 2022). These activities can include skills training, reintegration into the community, and social and psychosocial support. Social rehabilitation aims to reduce stigma and help individuals involved in narcotics abuse to be able to participate productively again in society. The rehabilitation process mandated by this law is not only mandatory, but also directed towards a comprehensive recovery that takes into account health and social aspects.

Members of the TNI as narcotics abusers will be sentenced to criminal sanctions in accordance with the provisions of Law Number 35 of 2009 concerning Narcotics. Based on the provisions of Article 6 of the Criminal Code, TNI members who commit criminal acts in addition to being sentenced to the main penalty can also be sentenced to additional penalties. Of course, additional sanctions such as demotion and dismissal from military service are not covered by the general criminal law. These two additional forms of criminal offenses are exclusively military in nature and add to the severe penalties already imposed on military personnel. Article 103 paragraph (1) of Law Number 35 of 2009 concerning Narcotics states that, "The judge who examines the case of a Narcotics Addict may:

1. decide to order the person concerned to undergo treatment and/or treatment through rehabilitation if the narcotics addict is proven guilty of committing a narcotics crime; or
2. stipulates to order the person concerned to undergo treatment and/or treatment through rehabilitation if the Narcotics Addict is not proven guilty of committing a Narcotics crime.

The rule is clear that the provision of rehabilitation at the General Court is the right of abusers or narcotics addicts, but in the TNI until now there is no special regulation that regulates the provision of rehabilitation, both medical and social, for TNI soldiers who abuse narcotics, as mandated in Article 54 of Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics. This is certainly contrary to Article 28 D paragraph (1) of the Constitution of the Republic of Indonesia 1945 *in conjunction with* Article 54 of Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics, but in reality there is a Supreme Court Cassation decision Number: 215 K/Mil/2019 which in its decision rejects the cassation application from the cassation applicant/Military Inspector at the Military Inspectorate III-14 Denpasar. The Supreme Court's Cassation Decision upheld the Appellate Decision of the High Military Court III Surabaya and the Decision of the Military Court III-14 Denpasar which sentenced the Defendant to imprisonment for 16 (sixteen) months to the Defendant, a TNI soldier who was legally and convincingly proven to have committed a criminal act: "Class I Narcotics Abuser for himself committed together" and ordered that during his sentence the Defendant undergo social rehabilitation for 6 (six) months which was carried out in Lemasmil III Surabaya by BNN Sidoarjo Regency. Determining the time during which the Defendant carries out social rehabilitation is counted as the period of serving the sentence.

As for the writings similar to this research that have been published regarding the rehabilitation of military members who abuse narcotics within the TNI, one of them is Budiman Ilham, Faculty of Law, Andalas University of Padang, West Sumatra (Ilham 2021), with the title "Application of Rehabilitation for TNI-AD Military Members Involved in Narcotics Crimes". This research is limited to rehabilitation that cannot be applied to TNI-AD members who abuse narcotics because the rules in the area of the I-03 Padang Military Court require the judge to impose the sentence of dismissal, not the implementation of social rehabilitation for TNI soldiers who are not sentenced to additional dismissal, therefore the author is interested in making this topic the focus of research in the script with the title "**Juridical Review of the Implementation of Social Rehabilitation for TNI Soldiers Who**

Abuse Class I Narcotics" (Case Study of the Supreme Court Cassation Decision Number 215 K/Mil/2019).

1.1. Problem Formulation

Berdasarkan latar belakang in atas, makang mang menjadi permasalahan yang akan dibahas dalam this researchan, as follows:

1. How is the implementation of social rehabilitation for Convicts who abuse Class I Narcotics, in the Supreme Court Cassation Decision Number 215 K/Mil/2019?
2. What are the legal provisions for the implementation of social rehabilitation for the military who abuse Class I Narcotics that are expected?

2. Literature Review

2.1. General Crimes

Criminal acts are translations of foreign terms (in foreign languages), namely Dutch with the term "*Het strafbare feit*", foreign terms that have been translated in Indonesian use different terms and in their meaning, there are also differences. Thus the term "*Het strafbare feit*", has been translated in Indonesian as (S.R. Sianturi, 2010):

- a. Acts that can/are punishable
- b. Criminal events
- c. Criminal acts
- d. Criminal acts and
- e. Delik.

In the Criminal Code (KUHP), criminal acts are known as *Strafbaarfeit*. According to the Dutch language *Strafbaarfeit* there are two elements of word formation, namely *strafbaar* and *feit*. The word *feit* in means part of reality, while *strafbaar* means punishable, so literally the word *strafbaarfeit* means part of the punishable reality which is certainly not right.

In this study, the term criminal act is used which is defined based on the opinion of S. R. Sianturi (2020) that what is meant by a criminal act is an act committed at a certain time, place and circumstance, which is prohibited or required and criminally threatened by law, unlawful accompanied by a mistake committed by a person who is able to take responsibility (Harefa, Idham, & Erniyanti, 2023).

2.2. Military Crimes

Military crimes are criminal acts that are not regulated in the provisions of criminal law in general. Military crimes are regulated in the Military Criminal Code, commonly abbreviated as the Criminal Code. Criminal acts in the Criminal Code are generally divided into 2 (two) parts, namely pure military crimes (*zuiver militaire delict*) and mixed military crimes (*gemengde militaire delict*).

Pure military crimes are prohibited or required acts that in principle can only be carried out by a military person, because their special nature or for military purposes are determined as criminal acts. Pure military crimes include: crimes against state security; crimes in the implementation of war obligations, crimes of withdrawing from the unit in the implementation of service obligations (desertion); crimes of service, crimes of theft, fraud, and procurement, crimes of destroying, destroying or eliminating items needed by the armed forces (Manalu, Idham, & Erniyanti, 2023; Pebrianto, 2023).

Mixed military crimes are prohibited or required acts that have basically been regulated in the general criminal law, but are reregulated in the Criminal Code due to a situation that is typical of the military or other characteristics, so that a heavier criminal threat is required.

2.3. Narcotics Crimes

The Narcotics Crime can be interpreted as an act that violates the provisions as regulated by Articles 111 to 148 of Law Number 35 of 2009 concerning Narcotics. This can be seen from Supramono's

opinion that if narcotics are only for treatment and scientific interests, then acts outside these interests are crimes (criminal acts) (Supramono, 2001).

Faced with the development of crime today, the set of criminal sanctions that have been determined is the result of inappropriate choices or are no longer in accordance with the development of crime (Bustomi, 2023), which causes disruption in the prevention of crime development. The relationship between the current symptoms, namely the increase and development of criminality on the one hand and the limited number of criminal sanctions available to judges and prosecutors on the other, is one of the problems in the field of criminal policy that is quite difficult.

2.4. Definition of Narcotics

Terminologically, drugs are drugs that can calm nerves, relieve pain, cause drowsiness or stimulate (Moeliono, 2005). Wiliam Benton, as quoted by Mardani, explained in his book that narokoba is a general term for all types of substances that weaken or anesthetize or reduce pain (Mardani, 2008).

Soedjono D. stated that what is meant by narcotics is a type of substance, which when used (put in the body) will have an effect on the body of the user. These influences are in the form of: calming, stimulating, and causing delusions (hallucinations) (Soedjono 1977). Law Number 35 of 2009 concerning Narcotics provides the definition or definition of Narcotics as follows:

Narcotics are substances or drugs derived from plants or non-plants, both sentient and semisynthetic, which can cause a decrease or change in consciousness, loss of taste, reduce to the loss of pain and can cause dependence.

2.5. Rehabilitation

Law Number 35 of 2009 concerning Narcotics does not expressly provide a definition of rehabilitation. According to the provisions of Law Number 31 of 1997 concerning the Military Court, the definition of rehabilitation is the right of the Defendant to receive the restoration of his rights in his ability, position, and dignity in the event that the Defendant is decided by the Court within the Military Court or the Court within the General Court whose decision is not a criminal offense in the manner regulated in this law.

Narcotics Rehabilitation is one of the efforts to approach health for addicts or victims of Narcotics abuse apart from criminal efforts. The European Monitoring Centre for Drugs and Drug Addiction explains that Narcotics Rehabilitation is an effort to depenalize.

3. Research Methodology

3.1 Types of Research and Nature of Research

The type of research used in the preparation of this thesis is normative legal research. "Legal research is carried out by researching literature or secondary data" (Soekanto & Mamudji, 2009), but in this study the focus is on the first type of normative juridical research, namely the legal principles, which are then linked to the problems that are the subject of discussion. This research is a descriptive analytical research, "is a research that aims to carefully describe the characteristics of facts (individuals, groups or circumstances) and to determine the frequency with which something happens" (Soekanto, 2013). The analysis intended is based on the picture, the facts obtained will be carefully analyzed to answer the research.

3.2 Data and Legal Materials

- 1) Law Number 39 of 1947 concerning the Military Criminal Code (KUHPM)
- 2) Law Number 31 of 1997 concerning Military Courts
- 3) Law Number 34 of 2004 concerning the Indonesian National Army
- 4) Law Number 35 of 2009 concerning Narcotics
- 5) Law Number 25 of 2014 concerning the Law of Military Discipline
- 6) Regulation of the Ministry of Defense Number 18 of 2019 concerning the Prevention and Eradication of Abuse and Illicit Circulation of Narcotics, and Psychotropics, as well as Other Addictive Materials within the Ministry of Defense and the Indonesian National Army

- 7) Regulation of the Minister of Health Number 2415/MENKES/PER/XII/2011 concerning Medical Rehabilitation of Addicts, Abusers and Victims of Narcotics Abusers
- 8) Regulation of the Minister of Social Affairs of the Republic of Indonesia Number 8 of 2014 concerning Guidelines for Social Rehabilitation of Narcotics Addicts and Victims of Narcotics Abuse Facing the Law in Social Rehabilitation Institutions
- 9) Supreme Court Circular Letter Number 4 of 2010 concerning the Placement of Abuse Victims, Victims of Abuse and Narcotics Addicts into Medical Rehabilitation and Social Rehabilitation Institutions
- 10) Supreme Court Circular Letter Number 3 of 2023 concerning the Implementation of the Formulation of the 2023 Supreme Court Chamber Plenary Meeting as a Guideline for the Implementation of Duties for the Court

3.3 Data Collection

Data collection is carried out through document studies on secondary data with the collection of data from library materials related to the problem being researched and carried out by analyzing these documents that are directly related to the problem being researched.

3.4 Data Analysis

The data analysis in this thesis research is qualitative descriptive and According to Bogdan and Taylor, as quoted by Lexy J. Moleong, qualitative research is a research procedure that produces descriptive data in the form of written or spoken words from people and observed behaviors (Moleong, 2017). Analysis is important for the views that develop in legal science which can be a foothold to build legal arguments when resolving legal issues faced (Muhammad 2004).

3.5 Drawing conclusions

Drawing conclusions is carried out using Deductive Logic, namely by drawing specific conclusions from questions that are general in nature (Gultom 2000). The conclusion is the answer to the problem raised based on the results of the test and discussion convincingly as far as the research is conducted.

4. Results and Discussions

4.1 Analysis of the Implementation of Social Rehabilitation for Convicts Who Abuse Class I Narcotics in the Supreme Court Cassation Decision Number 215 K/Mil/2019

Legislative provisions regulating narcotics problems have been enforced, but crimes related to narcotics have not been alleviated until now. The existence of criminalization with narcotics cases is not the only punishment for people who have committed criminal acts but also restores justice to victims. The criminal aspect given to narcotics addicts is shown to provide treatment and rehabilitation rather than just punishment.

Criminal acts that are not regulated in the Criminal Code such as narcotics crimes committed by TNI soldiers, according to the provisions of Article 9 of Law Number 31 of 1997 concerning Military Courts are judicial from military courts. Judicial means people who are subject or subordinated to the power of a certain judicial body.

The formulation in Article 9 of Law Number 31 of 1997 concerning Military Justice, shows that the military court environment has absolute authority to adjudicate criminal acts against soldiers, so juridically Law Number 31 of 1997 concerning Military Justice lays the basis for the position of soldiers against the criminal justice system, both general crimes and military crimes must still be tried by the courts within the military justice environment.

Based on the provisions of Article 54 of the Narcotics Law, it is stated that every Narcotics Addict and Victim of Narcotics Abuse is obliged to undergo medical rehabilitation and social rehabilitation. The provisions of this article regulate the obligation for every narcotics addict and victim of narcotics abuse to undergo medical rehabilitation and social rehabilitation. Furthermore, with the issuance of rehabilitation rules for narcotics addicts and victims of abuse listed in the Narcotics Law, implementing regulations for narcotics rehabilitation were also formed, namely the Supreme Court

Circular Letter (SEMA) Number 4 of 2010 concerning the Determination of Narcotics Abuse and Addicts into Medical Rehabilitation and Social Rehabilitation Institutions. This circular is a guideline for the implementation of the implementation of criminal punishment as referred to in Article 103 of the Narcotics Law.

According to SEMA Number 4 of 2010, rehabilitation measures can be imposed, namely the defendant was caught by the investigators of the National Police and the National Narcotics Agency (BNN) when he was caught, evidence of one-day use was found, there was a positive laboratory certificate of using narcotics based on the investigator's request, there was a certificate from a government psychiatrist appointed by the judge, it was not proven that the person concerned was involved in the illicit circulation of narcotics, designate the place of rehabilitation and determine the length of rehabilitation.

Defendants who are medically rehabilitated or socially rehabilitated must meet several requirements, namely positive use of narcotics, there is a recommendation from the Integrated Assessment Team (TAT), not acting as a dealer, dealer, courier or manufacturer, not being a narcotics recidivist, when caught without evidence or with evidence that does not exceed a certain amount. Narcotics Addicts and Victims of Narcotics Abuse are required to report to get treatment or treatment through medical rehabilitation and social rehabilitation at public health centers, hospitals and/or medical rehabilitation and social rehabilitation institutions appointed by the government, as stated in Article 55 paragraph (1) and paragraph (2) of the Narcotics Law.

The government has an important role in appointing the right institutions to carry out rehabilitation, this is to ensure that the rehabilitation process is carried out properly and in accordance with the applicable needs and standards. The implementation of this article was issued by the government Regulation No. 25 of 2011 concerning the Implementation of Mandatory Reporting of Narcotics Addicts, which will hereinafter be called PP No. 25 of 2011. This regulation was issued to further regulate the implementation of rehabilitation for narcotics addicts and victims of narcotics abuse as stipulated in Article 55 of the Narcotics Law. Government Regulation No. 25 of 2011 stipulates mechanisms, procedures, funding and authorized institutions in the implementation of the rehabilitation. Overall, Government Regulation No. 25 of 2011 aims to clarify and detail the implementation of the provisions regarding rehabilitation regulated in Article 55 of the Narcotics Law, so that rehabilitation programs can run more effectively and well coordinated.

This authority is given as an effort to provide more appropriate treatment for addicts or victims of drug abuse, considering that rehabilitation can be a more effective solution than prison sentences in helping them recover and return to society. Placement in rehabilitation institutions is also regulated in various laws and regulations, which emphasizes the importance of a rehabilitative approach in handling narcotics abuse cases. Thus, this legal process not only focuses on the law enforcement aspect alone, but also considers the aspect of social recovery and reintegration for abusers who experience drug dependence.

The provisions of article 127 paragraph (2) can be interpreted that article 54 regulates the obligation to rehabilitate drug abusers and addicts, both those who are arrested and those who surrender. Article 55 explains the rehabilitation process and mechanism involving medical and social institutions as well as the role of families and communities in supporting the process. Meanwhile, article 103 regulates the authority of judges to decide on the implementation of medical rehabilitation and/or social rehabilitation for drug abusers and addicts who are proven or not legally and convincingly guilty. Thus, the judge's consideration of these articles aims to ensure that narcotics abusers receive appropriate treatment through rehabilitation, not just the imposition of criminal penalties, so as to reduce the negative impact of narcotics abuse in society.

According to the author, the legal basis for the imposition of a rehabilitation decision against narcotics abusers or addicts is based on the provisions of Article 103 by considering the provisions of article 54, article 55 and related to article 127 paragraph (2) of the Narcotics Law. The provisions of articles 54

and 55 state that Narcotics Addicts and Victims of Narcotics Abuse must be given rehabilitation and are entitled to treatment and/or treatment through medical rehabilitation and social rehabilitation.

The military in accordance with the provisions of article 2 of the Criminal Code, in addition to being subject to the Criminal Code as a citizen, is also subject to all rules that apply to all citizens in general, so that the provisions of the above article also apply to the military who are legally and convincingly proven as addicts or victims of narcotics abuse entitled to rehabilitation. Looking at the provisions of article 103 which gives the authority to the judge to decide or determine to undergo treatment and/or treatment through rehabilitation if a drug addict who is proven guilty or who is not proven guilty commits a narcotics crime. The provisions of this article are the basis for the judge's authority in providing rehabilitation, in addition to that, there must also be an assessment result from the Integrated Assessment Team (TAT) which states that the person concerned needs to undergo rehabilitation.

4.1.2. Judge's consideration of providing social rehabilitation in the Decision of the Military Court III-14 Denpasar Number: 44-K/PM. III-14/AD/XI/2018

Narcotics abuse is a crime because using narcotics without rights or against the law and used in negative ways will eventually make people addicted (addicted), not wanting to escape the pleasure even if their soul is threatened. In this case of narcotics abuse, whether criminal sanctions will be applied or sanctions for action are all in the hands of the judge. Because the Narcotics Law gives the authority to judges to impose prison sentences or rehabilitation actions for narcotics addicts. The existence of free and impartial judges in the criminal justice process greatly determines the purpose of the criminal justice system. Free and impartial judges have become a universal provision and a characteristic of the state of law (Renggong 2014).

The following is a military court decision that imposes a prison sentence and orders social rehabilitation for the defendant who has been legally and convincingly proven to have committed Class I Narcotics Abuse for himself. Decision of the Military Court III-14 Denpasar Number: 44-K/PM. III-14/AD/XI/2018 dated March 5, 2019 on behalf of the Defendant Sertu Taufan Sofyan Putra NRP 21070453751086, in a verdict that basically imposed a prison sentence of 1 (one) year and 6 (six) months and ordered that during his sentence the Defendant underwent social rehabilitation for 6 (six) months which was carried out at Lemasmil III Surabaya by BNN Sidoarjo Regency.

4.2. Implementation of Social Rehabilitation in Lemasmil III Surabaya by BNN Sidoarjo Regency

The Regency/City National Narcotics Agency (BNN) is a vertical agency of the National Narcotics Agency that carries out the duties, functions and authorities of the National Narcotics Agency within the Regency/City area. One of the functions of the Regency/City BNN in accordance with Article 24 letter b of the Regulation of the National Narcotics Agency of the Republic of Indonesia Number 3 of 2015 concerning the Organization and Work Procedures of the Provincial National Narcotics Agency and the Regency/City National Narcotics Agency is to implement technical policies in the field of prevention, community empowerment, rehabilitation and eradication within the Regency/City area.

Based on the Decision of the Supreme Court of the Republic of Indonesia Number 215 K/Mil/2019 dated October 3, 2019 on behalf of the Defendant Sertu Taufan Sofyan Putra NRP 21070453751086, which stated that it rejected the cassation application from the Applicant for Cassation of the Military Auditor at the Military Inspectorate III-13 Denpasar and affirmed the decision *of Judex Facti in cassu of the High Military Court III Surabaya* which affirmed the decision of the Military Court III-14 Denpasar, which imposed a prison sentence of 1 (one) year and 6 (six) months and ordered the Defendant to undergo social rehabilitation for 6 (six) months, which was carried out in Lemasmil III Surabaya by BNN Sidoarjo Regency became the basis for the execution of the crime. The cassation decision issued by the Supreme Court, the decision has permanent legal force (*inkracht van gewijsde*), meaning that it has permanent legal force and cannot be appealed further. Decisions that have permanent legal force are carried out by the Prosecutor, in accordance with the provisions of Article 254 of Law Number 31 of 1997 concerning Military Courts.

Based on these provisions, the Military Inspectorate after receiving an excerpt of the cassation decision immediately carried out the execution according to the order of the verdict by handing over the Convict to Lemasmil III Surabaya on Tuesday, November 19, 2019, in accordance with the Minutes of the Handover of the Convict from the Military Inspectorate III-13 Denpasar by Colonel Chk Dewa Putu Martin, S.H. NRP 2910046530370 received by the Kasiminnis of Lemasmil III Surabaya Major Chk Achmad Asmadi, S.H. NRP 21930118851273 to serve his sentence. Based on the results of the research conducted by the author, the implementation of social rehabilitation for the convict Sertu Taufan Sofyan Putra could not be carried out according to the order of the verdict, this was due to several obstacles faced by the BNN of Sidoarjo Regency and Lemasmil III Surabaya.

Based on the results of an interview with civil servant Vivin Elvionita NIP 199104092014032002 the Position of Addiction Constable of the BNN Pratama Clinic Sidoarjo Regency which was held on Monday, June 10, 2024 at the BNN Office of Sidoarjo Regency, explained the obstacles faced as follows:

- a. The National Narcotics Agency (BNN) of Sidoarjo Regency does not have services or facilities for the implementation of social rehabilitation, BNN Sidoarjo Regency only has a Primary Clinic for medical rehabilitation services in the form of inpatient and outpatient treatment, so Sertu Taufan Sofyan Putra was referred to the Rumah Kita Sidoarjo Foundation (IPWL), Perum Magersari Block U-6, Sidoarjo District.
- b. Yayasan Rumah Kita Sidoarjo (IPWL), to undergo social rehabilitation in the form of hospitalization must be carried out at the Foundation, but from Lemasmil III Surabaya it cannot be considered according to the court decision that the Convict must undergo it at Lemasmil III Surabaya.

Obstacles in the Implementation of Social Rehabilitation by BNN Sidoarjo Regency due to limited facilities and services. BNN Sidoarjo Regency currently only has a Primary Clinic that provides medical rehabilitation services in the form of inpatient and outpatient services. These facilities do not include services or facilities for social rehabilitation, thus having an impact on services to patients in need of social rehabilitation, i.e. patients do not receive the necessary support for reintegration into society after medical treatment. This can result in higher rates of relapse due to a lack of positive social and environmental support, with the unavailability of social rehabilitation services and facilities leading to dependence on third parties.

Patients who need social rehabilitation, such as Sertu Taufan Sofyan Putra, cannot be carried out by the Sidoarjo Regency BNN according to the order of the decision due to the unavailability of social rehabilitation facilities and services, so they must be referred to a third party such as the Rumah Kita Sidoarjo Foundation (IPWL). Institutions that are Obligated to Report, hereinafter abbreviated as IPWL, in accordance with the provisions of Article 1 of the Regulation of the Minister of Social Affairs Number 9 of 2017 concerning National Standards for Social Rehabilitation for Addicts and Victims of Abuse of Narcotics, Psychotropics, and Other Addictive Substances are public health centers, hospitals and/or medical rehabilitation institutions and social rehabilitation institutions appointed by the Government. This means that the Rumah Kita Sidoarjo Foundation is a social rehabilitation institution that has collaborated with the government in this case under the Ministry of Social Affairs, so that funding for the implementation of social rehabilitation for narcotics addicts and/or victims of narcotics abuse can be sourced from the State Revenue and Expenditure Budget (APBN) or the Regional Revenue and Expenditure Budget (APBD).

The implementation of social rehabilitation for the convict Sertu Taufan Sofyan Putra according to the referral from the Sidoarjo Regency BNN to the Rumah Kita Sidoarjo Foundation, also in fact cannot be carried out, because the services for the implementation of social rehabilitation are carried out through hospitalization so that the convict must undergo hospitalization at the Rumah Kita Sidoarjo Foundation, while in the court decision that the convict must undergo social rehabilitation at Lemasmil III Surabaya.

Other provisions that are the basis for the Convict to undergo hospitalization at the Rumah Kita Sidoarjo Foundation are the provisions of Article 10 of Law Number 39 of 1947 concerning the Military Criminal Code (KUHPM) and Article 256 paragraph (1) of Law Number 31 of 1997 concerning Military Courts, including the penalty of substitute confinement, will serve the sentence in a facility controlled by the military, in this case a Military Correctional Institution, as long as they have not been discharged from military service. Referring to these provisions, in the end it was returned to the Sidoarjo Regency BNN for its implementation, according to the court ruling that social rehabilitation was carried out by the Sidoarjo Regency BNN.

The limitation of human resources and expertise is also one of the inhibiting factors faced by BNN Sidoarjo Regency in improving the quality of service. The limited number and qualifications of these experts can be an obstacle in the provision of effective services and can also reduce the effectiveness of the rehabilitation program, with this limitation BNN Sidoarjo Regency and Lemasmil III Surabaya took steps by holding limited meetings to find solutions on the implementation of social rehabilitation for convicts.

Based on the results of the meeting, it was agreed that the Convict was carried out outpatient medical rehabilitation in the form of a consling. The implementation of medical rehabilitation in the form of consling was carried out 9 (nine) meetings at the BNN Pratama Clinic in Sidoarjo Regency, by dr. Devi Ria Novitasari and civil servant Vivin Elvionita with quite good progress. During the medical rehabilitation program, there is no charge (free).

BNN Sidoarjo Regency, in the author's opinion, in overcoming these obstacles, needs to take the following steps:

- a. Capacity Building of Facilities and Services.
- b. Developing Partnerships with Third Parties.
- c. Training and Development of Human Resources.
- d. Fundraising and Additional Resources.
- e. Advocacy and Socialization.

With a comprehensive and coordinated approach, BNN Sidoarjo Regency will be able to overcome existing obstacles and provide more complete and effective social rehabilitation services for people in need. Based on the results of an interview with Serka Patta Taubat, S.H. NRP 319904791177, the position of Baban Urehab Lemasmil III Surabaya which was held on Thursday, June 13, 2024 at the Lemasmil III Surabaya Office, which basically explained, as follows:

The implementation of social rehabilitation for the convict Sertu Taufan Sofyan Putra could not in fact be carried out in Lemasmil III Surabaya, this is because there are no facilities and infrastructure available for the implementation of social rehabilitation. Lemasmil III Surabaya does not have special personnel or experts in the field of social rehabilitation, besides that there is no social rehabilitation program in the institution so it is very difficult to implement. The implementation of rehabilitation was ultimately carried out at BNN Sidoarjo Regency, but the implementation of rehabilitation carried out was medical rehabilitation in the form of outpatient treatment.

Convicts in undergoing medical rehabilitation are always accompanied by officers from Lemasmil, counseling activities are carried out 9 (nine) meetings. This activity ran smoothly with quite good results, in addition to undergoing a consling, the Convict also participated in activities according to the activity schedule set by Lemasmil. The activities carried out against convicts who are narcotics addicts are not the same as other convicts, including the place where they are separated from other prisoners. Activities given to narcotics inmates include:

- a. Physical activities such as running are made as much as possible to reduce addiction and are always sought to be active.
- b. Given cooking activities every morning, sports such as bolla voly, soccer and voot sal, to reduce the burden of the mind and the desire to use narcotics (sakau).

The pattern of coaching in military corrections is different from the pattern of coaching in general corrections, this is based on the fact that a soldier (ex-inmate) who will return to active must become a good and useful military person both because of his own awareness, and as a result of the educational actions he received while in military corrections. The Surabaya III Military Institution does not have special personnel to handle Narcotics Convicts who have been sentenced to both medical and social rehabilitation, so it is considered necessary to carry out a form of cooperation with government or private institutions in handling military prisoners to carry out rehabilitation programs.

The implementation of medical rehabilitation as a substitute for social rehabilitation can be seen as a form of effort to continue to carry out court decisions even though they are not completely appropriate. However, this could raise debate about full compliance with court orders, reflecting a violation of the principle of legal certainty. Although medical rehabilitation in the form of a conning is done as an alternative, this is not entirely in accordance with the court ruling. This inability creates legal uncertainty, since the Convict does not receive the social rehabilitation ordered, which in turn undermines trust in the legal system and justice that should be guaranteed by legal certainty. Therefore, to truly realize legal certainty and justice, the relevant agencies must ensure that court decisions are implemented as they should, regardless of the limitations of existing facilities.

The cassation decision ordered the Defendant to undergo social rehabilitation in Lemasmil III Surabaya by the Sidoarjo Regency BNN However, the implementation of this rehabilitation must be supported by adequate facilities and services. BNN Sidoarjo Regency does not have social rehabilitation services in accordance with the order of the verdict. This shows that there is an unpreparedness or limited facilities in fulfilling the court order. In the condition that BNN Sidoarjo Regency is unable to carry out social rehabilitation in accordance with the court order, they choose to carry out medical rehabilitation in the form of counseling as an alternative. This step was taken to continue to provide the necessary treatment to the Defendant in accordance with Article 54 of the Narcotics Law, which states that narcotics addicts are obliged to undergo medical and social rehabilitation. Although social rehabilitation cannot be carried out, due to the limitations of medical rehabilitation facilities, it is an effort to fulfill legal obligations and provide the necessary interventions for narcotics addicts.

This action demonstrates flexibility in the application of the law to continue to provide the necessary care, even if it is not fully compliant with a specific court decision. This step also reflects the efforts of the Sidoarjo Regency BNN to enforce the law and ensure that addicts get the help they need, despite obstacles in the implementation of social rehabilitation.

In the author's opinion, the implementation of social rehabilitation for the Defendant cannot be carried out according to the order of the court decision, due to the lack of good coordination between the Court and the BNN of Sidoarjo Regency as the executor of rehabilitation, to ensure that the court decision can be implemented properly and in accordance with the applicable law. The court must ensure that the judgment handed down is realistic and enforceable by the relevant agencies, before imposing the court decision needs to ensure the availability of adequate facilities and services, despite efforts to continue to carry out the judgment with medical rehabilitation, the failure to provide the ordered social rehabilitation indicates the need for improvement in the system and coordination between the relevant agencies. The inability to carry out in accordance with the order of the verdict in the end, will result in the failure to achieve legal certainty.

4.3. Analysis of the legal provisions for the implementation of social rehabilitation for the military who abuse Class I Narcotics is expected

4.3.1. Legal Provisions on Rehabilitation in the Military Court

The military court environment currently does not know the rehabilitation policy for narcotics users in its soldiers. This is evident from the TNI Commander's policy in the form of a Telegram Letter (ST) to take firm action against narcotics abusers by providing criminal penalties and even dismissal. The Telegram Letter of the Commander of the TNI Number ST/398/2009 dated July 22, 2009 expressly states to soldiers involved in cases of abuse of narcotics, psychotropics, precursors and other addictive substances to be dealt with strictly in accordance with applicable laws and regulations, especially to dealers, owners and repeat users/addicts to be dishonorably dismissed (PTDH) from military service. The background of the policy was issued with the aim of affirming the TNI's attitude towards the problem of abuse of narcotics, psychotropics, precursors, and other addictive substances among soldiers.

In more detail, the prevention of narcotics abuse has been regulated in Article 4 of the Regulation of the Commander of the Indonesian National Army Number 27 of 2013 concerning the National Action Plan within the TNI. The activities in the National Action Plan within the TNI are a real effort in the context of preventing and eradicating the abuse and illicit circulation of narcotics within the TNI. These activities include counseling and training on countermeasures, prevention, and eradication of narcotics abuse and illicit trafficking, such as holding seminars and how to prevent narcotics abuse in the military environment.

Meanwhile, based on the provisions of article 54 of the Narcotics Law, soldiers who commit narcotics abuse also have the same rights before the law (*equality before the law*). The principle of "*equality before the law*" is a fundamental principle in the legal system that states that every individual, regardless of social, economic, or other background, has equal rights before the law and must be treated fairly by the judicial system. The basic principle of this principle emphasizes that everyone has the right to fair and impartial treatment from legal institutions, including the TNI, the Police, the Prosecutor, the courts, and other legal entities. Everyone should have equal access to the justice system, including the right to a lawyer, the right to appeal, and the right to be tried by an impartial court.

All impacts show that drug abuse by soldiers not only harms individuals, but also threatens the safety and performance of military institutions as a whole. Given the devastating impact, comprehensive treatment, including medical and social rehabilitation, is critical to addressing this problem and ensuring soldiers can return to function optimally in their duties.

According to the author, there are no provisions regulating medical rehabilitation and social rehabilitation in the military judicial environment against narcotics abuse because narcotics crimes are serious violations that can damage discipline and morals in the military body and have a bad impact on soldiers and TNI institutions. This can be seen from the policy of the TNI commander by issuing a Telegram Letter (ST) to take firm action against soldiers who commit criminal acts of drug abuse, in addition to being sentenced to the main penalty in the form of imprisonment, an additional penalty of Dishonorable Dismissal (PDTH) can be imposed.

Associated with the principle of equality before the law and the provisions of article 54 above, the military has the right to receive rehabilitation, both medical and social. The handling of narcotics abuse cases by the military cannot be just punished, be it imprisonment or dismissal. Punishment without rehabilitation can exacerbate the problem by making soldiers more vulnerable to drug abuse or being recruited by crime syndicates. Responding to these problems requires a more comprehensive solution and rehabilitation is needed to effectively overcome this problem, protect soldiers, and maintain national defense and security.

4.3.2. The concept of social rehabilitation legal provisions in the expected military justice environment

As an effort to overcome narcotics abuse among TNI soldiers and ensure comprehensive recovery for TNI soldiers involved in narcotics abuse, it is necessary to formulate clear legal provisions regarding the implementation of medical rehabilitation and social rehabilitation in the military justice environment. The issuance of Sema Number 3 of 2023 concerning the Implementation of the Formulation of the Results of the 2023 Supreme Court Chamber Plenary Meeting as a Guideline for the Implementation of Duties for the Court, in the formulation of the plenary of the military chamber, it is explained that additional criminal imposition in the form of dismissal is not imposed on soldiers (defendants) who are proven to be narcotics abusers, who are consuming narcotics for the first time and have never violated the law.

This provision is important in providing proportionate legal protection and supporting rehabilitation efforts for soldiers who are involved in narcotics abuse for the first time, to provide opportunities for such soldiers to recover and contribute again to the military environment and ensure that law enforcement is carried out fairly and wisely. Judging from the aspects of health, social, legal, and security defense, it is known that a rehabilitation policy for TNI soldiers needs to be formed.

a. Health aspect

The impact of narcotics can damage the health of soldiers, Narcotics can have a significant negative impact on the physical and mental health of soldiers. Narcotics use can lead to organ damage, nervous system disorders, chronic illnesses, and mental health problems such as depression and anxiety. The health of soldiers who are impaired by drug abuse can result in decreased stamina, physical unpreparedness, and an inability to carry out military duties effectively. The Narcotics Law and Law Number 34 of 2004 concerning the TNI outline the importance of maintaining the health and discipline of soldiers to ensure the readiness and effectiveness of the TNI in carrying out its duties, therefore strict law enforcement and effective medical rehabilitation programs are essential to deal with this problem.

b. Social Aspects

In addition to damaging health, drug abuse can also negatively impact the social aspects of soldiers' lives, this can lead to a decline in social welfare, including damaged relationships with family and co-workers, financial problems due to the cost of acquiring narcotics, and social isolation. Disrupted social life can result in a decrease in morale and motivation of soldiers, which in turn can hinder their ability to work together in a team and carry out their duties well, so social rehabilitation programs are urgently needed to restore the conditions experienced by soldiers.

c. Legal aspects

It is known that the narcotics rehabilitation policy is a mandate from the law, every citizen and holder of state authority must obey and implement the order of the law so that all citizens, especially TNI soldiers, also get the same rights as other citizens to be rehabilitated.

d. Defense and Security Aspects.

The use of narcotics in soldiers can cause soldiers to be negligent in carrying out their duties so that they can endanger defense and security. The act of imprisonment without rehabilitation allows soldiers to get closer to narcotics abuse behavior, while the solution in the form of dismissal allows the soldiers to be raised by crime syndicates, especially narcotics syndicates. Some important points about the impact of narcotics use on soldiers and the consequences of punitive actions against them include:

1) Neglect in Carrying Out Duties.

The use of narcotics can cause soldiers to lose focus and concentration, which in turn reduces their performance. This can be very dangerous in the military context because their duties are often related to national defense and security, so that it can interfere with the implementation of the TNI's main tasks, which requires high readiness and resilience from each member to maintain state sovereignty, maintain territorial integrity, and protect the entire nation from various threats and disturbances.

2) Impact of Prison Sentence Without Rehabilitation.

Putting soldiers involved in narcotics in prison without providing rehabilitation can exacerbate the problem. In prison, they may encounter other drug users or even more serious offenders, increasing their risk of falling further into narcotic abuse behavior.

3) Dismissal Solutions and Their Risks.

Dismissing soldiers involved in narcotics without providing rehabilitation assistance can make them vulnerable to being recruited by crime syndicates, including narcotics syndicates. Soldiers who have lost their jobs and identities may be looking for the wrong way out to survive, and crime syndicates often see this as an opportunity to recruit them.

Based on the description mentioned above, the author argues that rehabilitation for the military who are proven to be abusers who consume narcotics for the first time and have never violated the law, either criminal or disciplined, narcotics addicts and victims of narcotics abuse must be given rehabilitation both medical and social. Given the importance of regulating rehabilitation in the military judicial environment, it is necessary to prepare special regulations within the TNI institution to designate the military involved in abuse or as victims in order to undergo medical and social rehabilitation, as mandated by Law Number 35 of 2009 concerning Narcotics.

The provisions of Article 7 paragraph (1) of Law Number 31 of 1997 concerning Military Courts which regulate the development of organizations and procedures, administration, finance of Courts and Inspectorates are carried out by the Commander of the TNI, thus it is necessary to make a concept of legal provisions, namely in the form of the Regulation of the Commander of the TNI which regulates the procedures for the implementation of rehabilitation within the TNI, including facilities and cooperation with government-owned or private-owned rehabilitation centers that are IPWL or has collaborated with the government under the Ministry of Social Affairs.

According to the author, reflecting on the implementation of social rehabilitation in the general judicial environment which refers to the regulation of the Minister of Social Affairs Number 8 of 2014 concerning Guidelines for Social Rehabilitation of Narcotics Addicts and Victims of Narcotics Abuse Who Face the Law in Social Rehabilitation Institutions, the concept of the TNI Commander Regulation which regulates social rehabilitation in the military judicial environment is as follows:

a. General Provisions

The general provisions contain various definitions, basic principles, and explanations of important terms used in the regulations, so that there is no confusion about the meaning of these words.

b. Purpose

Guidelines for Social Rehabilitation of Narcotics Addicts and Victims of Narcotics Abuse who are facing the law in Social Rehabilitation Institutions aim to:

- 1) Provide direction and guidelines for law enforcement who will entrust or hand over Narcotics Addicts and Victims of Narcotics Abuse within the institution;
- 2) Provide direction and guidelines for Social Rehabilitation organizers; and
- 3) Implementation of the Social Rehabilitation process in Social Rehabilitation Institutions

c. Social Rehabilitation Requirements

- 1) Narcotics Addicts and Victims of Narcotics Abuse who are facing the law are required to undergo Social Rehabilitation. carried out at the Social Rehabilitation Institution determined by the TNI Commander
- 2) Placement in Social Rehabilitation Institutions is aimed at:
 - a) Narcotics Addicts and/or Victims of Narcotics Abuse as suspects and/or defendants in narcotics abuse who are undergoing investigation, prosecution, trial proceedings in court, appeal, cassation, and review processes, with the status of trust based on court determination; or
 - b) Narcotics Addicts and/or Victims of Narcotics Abuse who have obtained a court decision that has permanent legal force.
- 3) The requirements for admission and registration of Narcotics Addicts and/or Victims of Narcotics Abuse with entrustment status must be completed with:

- a) Letter of determination from the Chief Justice of the Court in accordance with the level and stage of the legal process;
 - b) Minutes of the implementation of the determination;
 - c) Minutes of handover between the Social Rehabilitation Institution and the custodial agency;
 - d) Joint statement letter between the Social Rehabilitation Institution and the custodial institution regarding:
 - (1) Security and supervision of Narcotics Addicts and Victims of Narcotics Abuse who are placed in Social Rehabilitation Institutions;
 - (2) The obligation to escort and pick up Narcotics Addicts and/or Victims of Narcotics Abuse according to the needs of the judicial process is the responsibility of the custodial agency.
 - e) Resume/chronological of the case; and
 - f) An approval letter from the National Narcotics Agency/provincial narcotics agency/district/city narcotics agency regarding rehabilitation costs during the period when narcotics addicts and/or victims of narcotics abuse are deposited.
- 4) Requirements for Narcotics Addicts and/or Victims of Narcotics Abuse who have obtained status based on court decisions that have legal force must still be completed with:
- a) A copy of a court decision that has permanent legal force;
 - b) A letter of reference/introduction signed by the Chairman of the Military Court addressed to the Chief Military Inspector concerned;
 - c) Attach a copy of the results of the integrated assessment team for Social Rehabilitation;
 - d) Minutes of handover between the Social Rehabilitation Institution and the custodial agency; and
 - e) Sign a joint statement regarding the security and supervision of Narcotics Addicts and/or Victims of Narcotics Abuse placed in Social Rehabilitation Institutions.

d. Implementation of Social Rehabilitation

The implementation of Social Rehabilitation for Narcotics Addicts and/or Victims of Narcotics Abuse who are facing the law is provided in the form of:

- 1) Motivation and psychosocial diagnosis;
- 2) Care and nurturing;
- 3) Spiritual mental coaching;
- 4) Physical coaching;
- 5) Social guidance and psychosocial counseling;
- 6) Social assistance and assistance;
- 7) Resocialization guidance;
- 8) Reference.

Stages of Social Rehabilitation of Narcotics Addicts and/or Victims of Narcotics Abuse who are facing the law in Social Rehabilitation Institutions include:

- 1) Dormitory.
- 2) Orientation.
- 3) Assessment.
- 4) Intervention;
- 5) Resocialization;
- 6) Reintegration;
- 7) Termination.

e. Assistance

Assistance is an activity carried out by Professional Social Workers and/or Social Welfare Workers who are trained in the field of addiction and/or addiction counselors at the Social Rehabilitation Institution designated by the TNI Commander, both outside and inside the institution to assist Narcotics Addicts and/or Victims of Narcotics Abuse. It is carried out by the following mechanisms:

- 1) Receiving mentoring assignments;
- 2) Studying cases;
- 3) Coordinate with related parties;

- 4) Providing psychosocial assistance;
- 5) Accompanying during the trial process; and
- 6) Prepare a report on the implementation of mentoring

f. Coaching and Supervision

The TNI Commander provides guidance and supervision to the Social Rehabilitation Institution for Narcotics Addicts and/or Victims of Narcotics Abuse in accordance with his authority.

g. Monitoring and Evaluation

- 1) The TNI Commander carries out monitoring to ensure synergy, continuity, and effectiveness in the implementation of Social Rehabilitation of Narcotics Addicts and/or Victims of Narcotics Abuse in Social Rehabilitation Institutions
- 2) The TNI Commander conducts an evaluation of the implementation of Social Rehabilitation for Narcotics Addicts and/or Victims of Narcotics Abuse in accordance with his authority

h. Reporting

Military Correctional Institutions that organize Social Rehabilitation for Narcotics Addicts and/or Victims of Narcotics Abuse with the status of trust and based on court decisions that have permanent legal force, submit a written report on the implementation of Social Rehabilitation to:

- 1) TNI Commander c.q. Babinkum TNI
- 2) Law enforcers who entrust.

i. Closing Provisions

This regulation came into effect on the date of promulgation, so that everyone knew about it, ordering the promulgation of the TNI Commander Regulation with its placement in the State Gazette of the Republic of Indonesia.

5. Conclusion

5.1 Conclusion

The legal basis for the imposition of rehabilitation decisions for narcotics addicts and victims of narcotics abuse is based on the provisions of Article 103 of Law Number 35 of 2009 concerning Narcotics by considering articles 54, 55 and associated with article 127 paragraph (2). The judge's consideration in imposing a social rehabilitation verdict for the Defendant who is legally and convincingly proven to have abused Class I narcotics for himself in accordance with the Indictment of the Military Inspectorate III-13 Denpasar Number: Sdak/43/XII/2018. Based on the provisions of Article 103 paragraph (1) letter a of Law Number 35 of 2009 concerning Narcotics by considering articles 54, 55 and 7 paragraph (1) of the Joint Regulation of the Chief Justice of the Supreme Court of the Republic of Indonesia Number 01/PB/MA/III/2004, as well as the results of the assessment from the Bali Provincial BNN, which advised the Defendant to carry out social rehabilitation.

The implementation of social rehabilitation for the Defendant based on a court decision that has permanent legal force, in fact cannot be carried out according to the court decision, because the National Narcotics Agency (BNN) of Sidoarjo Regency does not provide social rehabilitation services. BNN Sidoarjo Regency only has medical rehabilitation services in the form of inpatient and outpatient treatment, so the Defendant was carried out outpatient medical rehabilitation in the form of consling, which was held as many as 9 (nine) meetings held at BNN Sidoarjo Regency with quite good results.

The condition that the Sidoarjo Regency BNN is unable to carry out social rehabilitation in accordance with the court order, they choose to carry out medical rehabilitation in the form of counseling, in the form of outpatient treatment as an alternative. This step was taken to continue to provide the necessary treatment to the Defendant in accordance with Article 54 of Law Number 35 of 2009 concerning Narcotics, which states that narcotics addicts are obliged to undergo medical and social rehabilitation. Although social rehabilitation cannot be carried out, due to the limitations of

medical rehabilitation facilities, it is an effort to fulfill legal obligations and provide the necessary interventions for narcotics addicts.

The military justice environment, currently does not know the rehabilitation policy for narcotics users in its soldiers, this is evident from the policy of the TNI Commander in the form of a Telegram Letter (ST), to take strict action against narcotics abusers by providing criminal penalties and even dismissal.

The Telegram Letter of the Commander of the TNI Number ST/398/2009 dated July 22, 2009 expressly states to soldiers involved in cases of abuse of narcotics, psychotropics, precursors and other addictive substances to be dealt with strictly in accordance with applicable laws and regulations, especially to dealers, owners and repeat users/addicts to be dishonorably dismissed (PTDH) from military service. The background of the policy was issued with the aim of affirming the TNI's attitude towards the problem of abuse of narcotics, psychotropics, precursors, and other addictive substances among soldiers.

As an effort to overcome narcotics abuse among TNI soldiers and ensure comprehensive recovery, clear and specific legal provisions on rehabilitation in the military justice environment are needed. Legal provisions for the implementation of medical rehabilitation and social rehabilitation, in the military judicial environment, need to be formulated, with the aim of providing comprehensive recovery for TNI soldiers, who are involved in narcotics abuse. Provisions for the implementation of social rehabilitation for the military, who commit the crime of drug abuse Group I proven to be addicts or victims of narcotics abuse in the military justice environment need to be made a TNI Commander Regulation which regulates the implementation procedures, facilities, procedures and mechanisms of social rehabilitation.

5.2 Suggestion

1. It is recommended that judges within the military court environment coordinate with the rehabilitation implementing agencies regarding the available facilities and services before issuing a decision, so that the court decision can be implemented as expected and create legal certainty.
2. It is recommended to prepare special regulations within TNI institutions in the form of TNI Commander Regulations, which regulate procedures for the implementation of medical and social rehabilitation for soldiers involved in drug abuse, users or victims of narcotics abuse, both during the examination process and those who have been given decisions with permanent legal force, including in terms of financing, as mandated by Law Number 35 of 2009 concerning Narcotics. Thus, the Military Inspectorate has a legal basis to carry out executions according to the order of the court decision.
3. It is recommended that a rehabilitation institution be created within the TNI to implement a rehabilitation program for soldiers involved in narcotics abuse, which based on a court decision is sentenced to rehabilitation and not dismissed from military service.

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