

## REHABILITATION OF DRUG USERS IN DIGNITY'S JUSTICE PERSPECTIVE

Bambang Setiawan  
Advocate Surakarta  
[Gjoe7009@gmail.com](mailto:Gjoe7009@gmail.com)

### **Abstract**

*Drugs is a dangerous threat for all people, in addition to the transnational, an increase in drug-related crime is fairly significant. Rehabilitation is one of the efforts to combat drug-related crimes. However, research shows drug rehabilitation policies for drug users normatively still centrally to law enforcement. In practice, law enforcement still do not understand the philosophy of rehabilitation and prone to the Corruption, Collusion and Nepotism. As a way out, dignified Justice concept is offered to drug users for at humanity. Referring to one of the values of Pancasila, namely, democracy permusywaratan practiced in customary justice. Policy toward drug rehabilitation should involve drug users to help determine period in the future.*

**Keyword:** *Dignity's Justice; Drug Users; Rehabilitation.*

### **A. INTRODUCTION**

One of the main enemies of the nation in this world is a drug. In addition to the threat of terrorism and destruction of the environment by firm global company, Drugs classified as transnational crime that carries a significant impact. Data obtained from the United Nations Office on Drugs and Crime (UN Doc) showed that in 2015, approximately 5% of the global population are drug users, data that is more worrisome is about 28 million, or 0.6% of the global population are drug abusers. UN Doc reports, also wrote that of the 12 million drug users who use needles and syringes, 1.2

million people infected with HIV, 6.1 million affected by hepatitis C, and 1.3 million people affected by HIV and Hepatitis C.<sup>1</sup>

Indonesia as a developing country is not spared from the phenomenon of drugs. In 2017, BNN released that revealed 46 537 drug cases and 27 cases of Money Laundering (AML), which comes from the evil of drugs. Of these cases has secured 58 365 suspects in drug cases, 34 suspected AML, and 79 other suspects who had been shot in place, because resistance. The same

---

<sup>1</sup>[https://www.unodc.org/wdr2017/field/Booklet\\_1\\_EXSUM.pdf](https://www.unodc.org/wdr2017/field/Booklet_1_EXSUM.pdf) accessed on Wednesday, 09/05 at 11: 46.

source indicates that the confiscated goods acquired by BNN get shabu weighing 4.71 tons, 151.22 tons of heavy cannabis and ecstasy 2940748 grains or 627.84 Kilograms. While the money laundering trial involving Crime Narcotics, BNN seized assets worth 105 017 000 000 (One Hundred Seventeen Million Five Billion Rupiah).

German news agency, Dw.com ever carried an article stating that Indonesia is the drug trade in Central Asia. Articles containing conversations with Troels Vester, UNODC attache in Indonesia stated that the number of young population and kuanya network in Indonesia, making Indonesia the largest drug market in Southeast Asia. Vester also revealed that international organization headquartered in Indonesia's largest drug.<sup>2</sup>

In 2015, the President of Indonesia, Jokowi never declared war against drugs to execute drug dealers. This approach has been criticized sticescu. Tulisasn Sticescu published in Al Jazeera said the crackdown Jokowi not develop signifikan combat. Although many operations raids, but the facts on the ground it is the case of extortion to the users of law

enforcement officers, so the numbers for the eradication of drugs Sticescu not really reduced. There is no evidence that Indonesia's costly drug offensive in 2015 had any effect on drug use, he said.<sup>3</sup>

Narcotics Abuse has extends to some parts of society in big cities and cities small and even difficult to stop circulation. Narcotics abuse is used no for the purpose of treating the disease, however used intentionally to achieve "Certain consciousness" because of the influence of drugs on the soul. As Indonesian people which in general is currently faced with the very situation difficult to worry due to the rise usage, carelessly mavam type narcotics and psychotropic drugs.<sup>4</sup>

The death penalty for those involved in drug crime, basically legal under Act No. 35 Of 2009 on Narcotics. Article 114 paragraph (2), for example to explain that the death sentence can be given to themoffers for sale, sells, buys, mediates in sale

2 <http://www.dw.com/en/unodc-indonesia-is-a-major-drug-trafficking-hub/a-18231494> accessed on Wednesday, 09/05 at 12: 16.

3 Claudia Sticescu, *Why Jokowi's war on drugs is doing more harm than good*, in <https://www.aljazeera.com/indepth/opinion/2017/07/jokowi-war-drugs-harm-good-170725101917170.html> accessed on Wednesday, 09/05 at 12: 39.

4 Andri Winjaya Laksana, "Tinjauan Hukum Pidanaan Terhadap Pelaku Penyalahguna Narkotika Dengan Sistem Rehabilitasi," *Jurnal Pembaharuan Hukum* II, no. 1 (2015): 74–85, <http://jurnal.unissula.ac.id/index.php/PH/article/view/1417>.

and purchase, exchange surrender or accept Narcotics Group I in the form of plants weighing more than 1 (one) kilogram or exceed 5 (five) trunk or in the form of non plant weighing five (5) grams.

The most serious threats to the perpetrators of this dealer is inversely proportional to the status of the user or abuser pursued their rehabilitation. In 2017, BNN has rehabilitated 18 311 drug abusers, both in rehabilitation centers and in prisons, and has been providing services to the 7829 post-rehabilitation of former drug abusers.

Article 4 clearly states that one purpose of the Act No. 35 of 2009 is guarantee arrangement medical and social rehabilitation efforts for Abuse order and narcotics addicts. Assuming that the abusers and users are the victims, the rehabilitation is a non penal effort in the eradication of drugs. The existence of rehabilitation showed that the drug eradication has abolitionist element, rather than leaning to retributive flow.<sup>5</sup>

---

5 Abolitionist flow in the Criminal Code can not be separated from the doctrine of determinism, which states that the human will is basically free and actions undertaken by humans is the influence from outside himself, for example, is the environment. This assumption is the basis of the opinion that the crimes committed by human beings are basically not the will itself, and no influence from outside himself, so the criminal can not

Regarding the flow of abolitionism, McLeod states, structural critique of penal practices, is oriented toward displacing the criminal law as a primary regulatory framework and replacing it with other social regulatory forms. Displacing and replacing the intended Mc Leod is substituted Criminal Law under non penal elements that helped influence the occurrence of a crime.<sup>6</sup>

Todung Mulya Lubis said that the drug case is complex and organized. The war against drugs will not be successful by giving punishment is deterrence (such as the Criminal and the Dead) for upstream problems are not resolved. Todung said the government should also active against poverty and injustice as the source of drug crimes.<sup>7</sup>

---

be directly given to the person who committed the crime. Check in Teguh Prasetyo, 2013, *Kriminalisasi in Criminal Law*, Nusamedia, Bandung, P. 56

6 Allegra M. McLeod, 2015, *Prison Abolition and Grounded Justice*, 2015, *UCLA L. Rev.* 1156, p 1208

7 Lopez never examined the death penalty for traffickers in Court, other than the conflict with the Constitution, the death penalty for traffickers are not appropriate because many dealers are the poor, who are forced to become traffickers because of economic necessity. Judicial Review by Todung Mulya Lubis ultimately rejected by the Court, although such decision there Dissenting Opinion, a more complete view in Todung Mulya Lubis, 2009, controversy over the death penalty; Differences pendapat Constitutional Court, Kompas, Jakarta.

Despite the backdrop dilakukanya abolitionism element of rehabilitation for drug users, does not mean that drug users can not be separated from criminal threats. Article 127 Paragraph (1) of Act No. 35 of 2009 states,

- 1) Every Abuse To:
  - a. Narcotics Group I for myself is liable to imprisonment for a period of 4 (four) years;
  - b. Narcotics Group II for yourself is liable to imprisonment for a period of 2 (two) years; and
  - c. Narcotics Group III for themselves shall be punished with imprisonment for a period of 1 (one) year.

Although in Paragraph (3) mentioned Punishment must pay attention to Article 54 (status as addicts and victims *penyelahguna*), 55 (offenders under age), and 103 (adjudication), but the presence of *Pemidaan* shows that the spirit of abolitionism run half and half. Obligation to perform rehabilitation (both medical and social) for addicts refer to Article 103 letters a and b Jo. Supreme Court Circular (SEMA) 04 of 2010 which states Judges hear cases Narcotics addict can decide to order

the treatment and / or rehabilitation care through either guilty or not guilty, provided that:

1. Defendant at the time was arrested by police investigators and investigators BNN in a state caught red-handed
2. At the time caught in the corresponding point a found evidence of the use of I (one) day with the details as follows:

Group methamphetamine (shabu)	1 gram
Group of MDMA (ecstasy)	2.4 grams = 8 points
Heroin group	1.8 grams
Cocaine group	1.8 grams
Ganja group	5 grams
leaf Koka	5 grams
Mescaline	5 grams
group Psilosybin	3 grams
Group LSD (d-lysergic acid diethylamide)	2 grams
Group PCP (phencyclidine)	3 grams
Fentanyl group	1 gram
Methadone group	0.5 grams
Morphine group	1.8 grams
Pethidine group	0.96 grams
Codeine group	72 grams
group Bufrenorfin	32 mg

3. Letter Lab test positive for narcotics upon request investigator.
4. Need Statement from the psychiatrist, the psychiatrist government appointed by the judge.
5. There is no evidence that the person concerned involved in the illicit traffic of narcotics.

Although Judge become final breaker, but consideration of the judge to give rehabilitation relies heavily on the investigation process. Investigation Mechanism containing specific provisions on criminal drug would produce a wide discretion and opens the possibility of the authorities' arbitrariness. Rehabilitation is a prerequisite to get a letter Laboratory, issued after obtaining permission from the investigator.

Research conducted by ICJR shows that the majority of arrests of drug users, followed by laboratory examination by investigators, not for the benefit of the placement of drug users in rehabilitation institutions but for the trap and add to the strength of evidence in the trial. The immense gap that triggered the growth of corruption among investigators and

drug users who do not want to be imprisoned.<sup>8</sup>

In addition to being the legal uncertainty and the threat of corruption, the more fatal is that in fact the drug addicts are victims, just regarded as a dead thing. Under the threat of corruption, human destiny is determined by how much and much material they have, while those who do not own property must surrender himself considered a criminal (though in fact they are victims).

This shows the human Materilisasi Law failed mendudukan human nature. Ontologically failure, not only coped with the Judicial Review or improvements to the substance of the law (the laws of matter), but more needs to be done in a reflective critique of this phenomenon. This criticism is coupled with alternative bids, which is expected to be at the breakdown into the material formulation Narcotics Law.

Voted criticism, we need to look at the idea of justice Teguh Prasetyo dignity. As a critic, Dignity Justice tells us how assumptions about the Hobbesian

8 Supriyadi Widodo, et al, 2016, *SEMA Implementation and Related Seja Narcotics User Placement in Rehabilitation Institute in Surabaya*, ICJR, Jakarta, p. 26

Leviathan<sup>9</sup>infiltrate and flourish in the development of law in Indonesia. Along with the advent of colonialism, patterned Law barbarism that began to erode native indigenous law, and make no more human than human. Justice dignified like to give criticism that humans actually harus be placed according to the nature and dignity (in-humanity) in the eyes of the law. As an alternative thinking, Justice dignified want to give a legal excavation native country through unifying Pancasila into sentences.<sup>10</sup>

## **B. DISCUSSION**

### **1. REHABILITATION POLICY FOR DRUG USERS**

At the general assembly in 2002 through the provision of Decree No. VI / MPR / 2002 on the recommendation of the Reports Implementation of the Decision of the Constitutional Committee by the President, DPA, Parliament, BPK, MA At the Annual Session of the MPR 2002 recommending to the President with the House, to

revise Act No. 22 of 1997 and Act No. 5 of 1997. this is reinforced by letter of the President No. R. 75 / Pres / 9/2005 dated 22 September 2005 concerning the Draft Law on Narcotics. In the end, Act No. 35 of 2009 on Narcotics which was enacted on October 12, 2009, which according to Widodo Supriyadi tend to use health approach.<sup>11</sup>

In Article 4 letter d mentioned that the Narcotics Act aims to ensure the setting efforts of medical and social rehabilitation for addicts Narcotics Abuse. Although rehabilitation is still united with the phrase 'treatment' in Chapter IX, but the setting of Rehabilitation is more complete than the previous law, From Article 54 to Article 59.

Article 54 states Addicts Narcotics and Narcotics abuse victims to undergo mandatory medical rehabilitation and social rehabilitation. Rehabilitation types used in this law is the same as the previous law, namely Rehabilitias Medical and Social Rehabilitation.

---

9 Leviathan is simply a werewolf who has the power before the existence of the state, described by Thomas Hobbes, that in case of non- human country prey to one another (homo homini lupus) and so we need a strong leader who is able to control the chaos in the form of Leviathan.

10 Teguh Prasetyo, 2017, the Law Reform; Justice Theory Perspective Dignity, Equal Press, Malang, p 13.

---

11 Widodo Supriyadi Ediyono et al, 2017 *Strengthen the Narcotics Act revision Indonesia ; Proposed Civil Society*, Institute for Criminal Justice Reform, Jakarta, P 18

In Article 56 Paragraph (1) states that the Narcotic Addict Rehabilitation medical done at a hospital designated by the Minister. Article 57 stated that the addition to the treatment and/or medical rehabilitation, healing Narcotic Addicts can be held by a government agency or community through religious and traditional approaches. As for the implementation of the technical guidelines stipulated in the Regulation of Medical Rehabilitation Health Minister Number 50 of 2015 concerning Technical Guidance on Obligation Report and the Medical Rehabilitation For addicts, abusers, and the Abuse of Narcotics.

As for Social Rehabilitation under Article 58 social rehabilitation of former addicts Narcotics organized either by the government or by society. As for the implementation of the Social Rehabilitation Social Kemeterian stipulated in Rule No. 26 of 2012 on Social Rehabilitation Standards Abuse Narkotiak, psychotropic and other addictive substances. in addition to the Ministry of Health and Social Affairs who issued the

Regulation on standards and technical service of Rehabilitation, National Narcotics Agency also issued Regulation of the National Narcotics Agency Republic of Indonesia Nomor 24 of 2017 on Standards of Rehabilitation Services For Addicts Narcotics and Narcotic Abusers.

Authority to undertake rehabilitation, in this case is Article 54 is closely related to Article 127 Paragraph (2) which states: In deciding the case referred to in paragraph (1), the judge shall take into account the provisions referred to in Article 54, Article 55 and Article 103.

Article 103 also provides ample opportunity for the judge to give a verdict rehabilitation. Mentioned that :

*(1) Judges who hear cases Narcotic Addicts can:*

- a) Decide to order the treatment and/or treatment through rehabilitation if the Narcotic Addict guilty of the crime of Narcotics; or*
- b) set to order the treatment and / or treatment through rehabilitation if*

*the Narcotic Addicts are not guilty of the crime of Narcotics.*

*(2) The period of treatment and / or care for Narcotics addict referred to in paragraph (1) letter a calculated as serving time period. "*

The existence of the phrase 'to' show their optional nature in the provision of Narcotic Addict Rehabilitation to. To avoid the uncertainty of law, the Supreme Court of the Supreme Court issued Circular No. 04 of 2010 concerning the Placement of abuse, victims of abuse and Narcotic Addicts in Rehabilitation Institute of Medical and Social Rehabilitation.

Article 2 states the application of punishment as referred to in Article 103 letters a and b of Law of the Republic of Indonesia Number 35 of 2009 on Narcotics only be imposed on the classification of criminal offenses as follows:

1. Defendant at the time was arrested by police investigators and investigators BNN in a state caught red-handed
2. At the time caught in the corresponding point a found

evidence of the use of I (one) day with the details as follows:

Group methamphetamine (shabu)	1 gram
Group of MDMA (ecstasy)	2.4 grams = 8 points
Heroin group	1.8 grams
Cocaine group	1.8 grams
Ganja group	5 grams
leaf Koka	5 grams
mescaline	5 grams
group Psilosybin	3 grams
Group LSD (d-lysergic acid diethylamide)	2 grams
Group PCP (phencyclidine)	3 grams
Fentanyl group	1 gram
Methadone group	0.5 grams
Morphine group	1.8 grams
Pethidine group	0.96 grams
Codeine group	72 grams
group Bufrenorfin	32 G

3. Letter Lab test positive for narcotics upon request investigator.
4. Need Statement from the government psychiatrist psychiatrist appointed by the judge.



5. There is no evidence that the person concerned involved in the illicit traffic of narcotics.

The role of law enforcement (judges) in determining a person's rehabilitation was reaffirmed in the Government Regulation No. 25 of 2011 on the Implementation of Mandatory Report Narcotic Addicts With the grace of God Almighty. In Chapter III Rehabilitation, Article 13 Paragraph (2) states that, The obligation to undergo medical rehabilitation and/or social rehabilitation true for Narcotics addict who was ordered by:

- A. The court ruling if the Narcotic Addict guilty of the crime of Narcotics;
- B. A court warrant if Narcotic Addicts are not guilty of the crime of Narcotics.

Even on Article 13 Paragraph (3) also states Narcotic addict undergoing judicial process can be placed in a medical rehabilitation institution and/or social rehabilitation. As for Article 13 Paragraph (4) states that the authority of the Placement in medical rehabilitation institution and / or the social rehabilitation of the authority of the investigator,

prosecutor or judge in accordance with the examination level after getting a recommendation from the team doctor.

This provision is strengthened by SEMA No. 03 Of 2011 on Narcotics Penyalahgunaan Victims Placement in Rehabilitation Institute of Medical and Social Rehabiiltasi. Article 7 stated that the role of the judge who is very central to medical rehabilitation and / or social carried out with determination.

The central role of law enforcement can be seen also in the role of attorney as a prosecutor. based on Attorney General Circular NO. SE-002/A/JA/02/2013 on Narcotics Abuse Victims Placement Rehabilitation Institute for Medical and Social Rehabilitation. In Article 3 states

In handling cases of narcotics, the suspect / defendant is a victim of drug abuse are being handled in the process and the prosecution stage, the Public Prosecutor may:

- A. Placing the suspect/defendant to the Rehabilitation Center of Medical and Social

Rehabilitation's or rehabilitated outside the State Prison, with the proviso that the suspect addicts and the Narcotics Abuse Victims.

- B. Filed criminal charges in the form of placement of the defendant to the Medical and Social Rehabilitation, with reference to the provisions of laws and regulations, as well as the sociological and philosophical considerations.

AGO re-issued Seja NO. B-601/E/EJP/02/2013 on the Placement Narcotic Addicts and Abuse Victims Rehabilitation Institute for Medical and Social Rehabilitation. The circular was issued to harmonize the application of Seja No. SE-002 / A / JA / 02/2013 on Narcotics Abuse Victims placement to the institute of Medical Rehabilitation and Social Rehabilitation

Seja natural provision states that with reference to Article Article 54, Act No. 55-59 35 of 2009 on Narcotics Jo. Article 13 paragraph (3) and (4), the drug addicts and victims of drug abuse and drug abuse victims are no longer solely directed to form

penanahanan in detention and the imposition of a prison sentence, but required to undergo a medical and / or social in rehab.

If we could be some regulation danced straight line above is, we can see that the law enforcement agencies have a central role in determining the development policy for the rehabilitation of drug users. Problems arise when in the field of law enforcement to do more discretion than attribution.<sup>12</sup>In Article 54 of Act No. 35 of 2009 which is closely linked to Article 127 (2) which states that the judge shall consider Article 54, 55, and 103 in deciding the case against drug abusers.

Research conducted by ICJR shows that the provision contains two weaknesses at a time that First though is mandatory, but the implementation is very dependent on the investigators and prosecutors. If the Public Prosecutor does not invoke the provisions of Article 127 of Law on

---

<sup>12</sup> Attribution is obtained authority from the state officials order legislation, or are simply the implementing authority under the laws and rules while Discretion is simply the authority / authorities in the form of freedom of action of state officials to take decisions menruut own opinions.

Narcotics in the indictment or charges, then the placement of drug users in correctional institutions is difficult to do. Including the most fatal condition, which the judges still decide to use Article 127 Narcotics Act but does not consider the provision of rehabilitation as stated in Article 54 of the Narcotics Act.<sup>13</sup>

Another weakness is Article 103 of the Narcotics Act into consideration in Article 127 to use the word "may" in light of the judge's authority. This means that its facultative (optional) and not something that is required to do. At this point, the placement in the rehabilitation of drug users have also become very dependent on the views of judges.<sup>14</sup>

In research ICJR, many Judges are still of the view that the addict is the same as the perpetrator rather than as victims of a system that is organized crime. Essentially is that there may be an abuser, in the abusive actions, he does not carry,

buy, store and coined the drug, especially if the perpetrators are caught and found evidence. With that understanding then the automatic application of the provisions of rehabilitation difficult to implement.<sup>15</sup>

## **2. REHABILITATION IN DIGNITY'S JUSTICE PERSPECTIVE**

In a note Stenning, although generally Discretion absorbed many elements of the Common Law but did not rule out the possibility of discretion is applied in the Civil Law legal system.<sup>16</sup> One of the problems in the application of discretion in enforcement is the inability of law enforcement to dig primary purpose of the rules or the laws.

One of the main objectives of the Act No. 35 of 2009 is to ensure setting efforts both medical and social rehabilitation for addicts Narcotics Abuse and Guna. Law enforcement practices

---

13 Supriyadi Widodo, et al, 2016, SEMA Implementation and Related Seja Narcotics User Placement in Rehabilitation Institute in Surabaya, Jakarta: ICJR, P. 26

14 Supriyadi Widodo, et al, 2016, SEMA Implementation and Related Seja Narcotics User Placement in Rehabilitation Institute in Surabaya, Jakarta: ICJR, P. 27

---

15 AR Sujono and Boy Daniel in Supriyadi Widodo, et al, SEMA Implementation and Related Seja Narcotics User Placement in Rehabilitation Institute in Surabaya, 2016, Jakarta: ICJR, P. 26

16 Simon Bronitt and Philip Stenning, 2011, Understanding discretion in modern policing, Paper presented at the Conference QUT, Crime, Justice and Social Democracy; An International Conference (26 to 28 October 2011). P. 319

that deviated in teleologik, showed the presence of the main symptoms of misunderstanding about the nature of addicts and users are actually the victims, not the perpetrators who should be rewarded accordingly.

In practice, the drug users who want to recover are faced with the difficult choice to undergo rehabilitation with the first involved corruption and with no small cost, or surrender to serve a sentence with the risks encountered traffickers and drug dealers which makes it much to get rid of.

This problematics according to Teguh Prasetya, became part of the Criminal Law patterned Barbarism, ie when the legal system is not humanize (*nguwongke Uwong*) or other language is an attempt dehumanization.<sup>17</sup> The style of this dehumanization can be seen from the potential corruption that lead people to materialized.

In an effort to drug rehabilitation, law enforcement officers just do rehabilitation effort to who owns the material (assets), while the mereka who do not own

property must surrender himself considered a criminal (though in fact they are victims). It shows human beings, only visible than the material alone.

This phenomenon gets critics by Teguh Prasetya the hierarchy reversal method (as in deconstruction) that put man on the position should be.<sup>18</sup> However, different from the anti Hierarchical Deconstruction, Teguh Prasetya perform this critical reconstruction in the frame to the east to include God as a dominant factor in the lawless life.<sup>19</sup>

Furthermore Teguh Prasetya states:<sup>20</sup>

If the perspective of Justice Theory Dignity is used, it is my understanding that the source of the law is derived from the idea (reason), which is owned by the competent authority from the 'upstream' of God, followed by peikiran various rulers or

---

18 Dekonstruksi is a method of reading of a text. Deconstruction believe that a hidden text logos (center) makes a meaningful text. These logos are about to be torn down by Deconstruction, in the absence of a text logos will then be free to be understood and interpreted. More details see in Bambang Sughiharto, 1996, Postmodernism; The challenge for Philosophy, Yogyakarta: Pustaka Kanius, P. 44 or see Ahyar Joseph Lopez, 2011, Postmodernism, Theory and Methods, King Grafindo, Jakarta

19 Teguh Prasetya, Op Cit., P 15.

20 Teguh Prasetya, Ibid, p 15.

---

17 Teguh Prasetya, Op Cit, p 12.

governments who have received authority lawfully in a legal system in force, the true source of law is none other than reason itself. Theory of Justice with Dignity call reason more grounded Indonesia conception, the soul of the nation or *volkgeist*; Pancasila.

In addition, *de yure* Pancasila is the source of all sources of law in Indonesia, Teguh Prasetya and Arie Purnomosidi wrote that Pancasila mean, that the relationship between religion and the state is not the separation that is rigid and absolute because they are both in a harmonious relationship. In addition, also guarantees religious freedom Pancasila (freedom of religion).<sup>21</sup>

The family principle of Pancasila is patterned criticism of the law and not barbarism. The principle of kinship in addition to being the antithesis of the Individualist-paced life-style western, according to Teguh Prasetya and Arie Purnomosidi also respect human dignity as individuals and serves as a protector of democracy are

included democratize the law, social justice and human decency.<sup>22</sup>

The principle of kinship contained in principle to 4 Pancasila, namely Democracy, led by the inner wisdom of deliberations representation. According to Latif, this Principle is trying to honor the people's voice in politics to give way to the role and influence of large by the people in the decision making process undertaken by the government.<sup>23</sup>

Yudi added in principle to 4 This is reflected in the original form of democracy in Indonesia. In addition to wide open a dialogue with the people, a typical Indonesian Democracy also contains elements of the Wisdom of Wisdom, which is an ethical orientation that sovereignty of the people and has a value *nilia divinity*, humanity, unity, deliberation, and justice.<sup>24</sup>

Quoting Hatta, yudi see that trail deliberative democracy in

---

21 Teguh Prasetya and Arie Purnomosidi, 2014, *Building Law based on Pancasila*, Nusamedia, Bandung, P 49

---

22 Teguh Prasetya and Arie Purnomosidi, *Ibid*, P. 52.

23 Latif, 2012, *the State Plenary; Historisistas, rationality and actuality of the Pancasila*, Gramedi Kompas, Jakarta, P 477,

24 Latif, *Ibid*, P. 477

principle to 4, in the footsteps of tradition village discussion. Although it should be reconsidered for a more macro level, 'Consensus practiced in the villages is to take decisions by consensus, with the approval of all of them after the problem should be talking at length'.<sup>25</sup>

Even though the need peninjaun back within a broader level, but the principles and family values and deliberative need didialogkan back to the current situation. In a legal development Teguh Prasetya and Arie wrote that during the development of the law seem pragmatic, non-systematic, impressed patchy, ragged, and not rooted in the values of community life and soul of the nation of Indonesia.<sup>26</sup>

In response to this unrest Teguh Prasetyo to provide an alternative to the road of legal reform in justice perspective dignity. Justice dignified offer renewal (reform) law that starts from the values of life (the living law) in Indonesia. The value of

that value, as we discussed, have complete Pancasila.<sup>27</sup>

Alternative thinking this could be the answer to the drug rehabilitation policies that are not "*nguwongke Uwong*". Based dignified justice perspective, in addition to drug users should be reinstated in their entirety as dignified human beings, it should be the values of Pancasila, namely 'Deliberation consensus' practiced by law enforcement.

Consensus conference concept that want to offer drug users have a role and influence in the process of law enforcement nets. This process, as well as the voice of the people who should be dominant in the decision making process undertaken by the government. because during this time, in law enforcement against drug users, law enforcement officials were impressed closed the space for dialogue so that the principle of consensus which is an archipelago of genuine unused.

With the space for dialogue based on consensus, drug users can express his interest, so that law enforcement is not monolithic

---

25 Latif, Ibid. P. 478

26 Teguh Prasetya and Arie Purnomosidi, Op Cit, p 149

---

27 Teguh Prasetya, op.cit, P. 16

done by law enforcement alone, but the victim in this case is also determine the future of drug users depanya to be free of drug-related crimes.

Completion of the problem in the form discussion this village can be seen in the form of traditional justice that to this day is still there. Studies conducted by Natangsa Surbakti shows that Indigenous justice oriented cultural values of family, put forward the principle of consensus for menyelesaikan a problem in a social system. And this paradigm is only found in the common law which is a reflection of the legal consciousness of the people of Indonesia.<sup>28</sup>

### C. CONCLUSION

Drug rehabilitation policies for drug users normatively still centered on the decision of law enforcement. In practice, law enforcement still do not understand the philosophy of execution of rehabilitation for drug users, in addition to the discretionary practices cause their rehabilitation policy to be vulnerable Corruption, Collusion and Nepotism.

The concept of dignified Justice considers that in the life of human beings should arbitrate in humanity. With reference to the principle of Pancasila to 4, namely Democracy, led by the inner wisdom of deliberations of representatives, drug rehabilitation policy should refer to the traditional justice that has been widely practiced by applying a consultative value. So that in law enforcement drug crimes, drug users in humanity and helped give participation to determine the future.

---

28 Natangsa Surbakti, 2014, Restorative Justice; in Frame Empiri, Theory, and Policy, Genta Publishing, Jogjakarta, P 6.

## BIBLIOGRAPHY

### Books:

- Bronitt, Simon and Philip Stenning, 2011, *Understanding discretion in modern policing, Paper presented at the Conference QUT, Crime, Justice and Social Democracy; An International Conference* (26 to 28 October 2011)
- M. Mcleod, Allegra, 2015, *Prison Abolition and Grounded Justice*, 2015, UCLA L. Rev. 1156
- Laksana, Andri Winjaya. "Tinjauan Hukum Pidana Terhadap Pelaku Penyalahgunaan Narkotika Dengan Sistem Rehabilitasi." *Jurnal Pembaharuan Hukum* II, no. 1 (2015): 74–85. <http://jurnal.unissula.ac.id/index.php/PH/article/view/1417>.
- Latif, Yudi, 2012, *The State Plenary; Historisistas, rationality and actuality of the Pancasila*, Gramedi Kompas, Jakarta
- Lubis, Todung Mulya 2009, *Controversy Over The Death Penalty; Differences Constitutional Court*, Kompas, Jakarta.
- Lubis, Ahyar Joseph, 2011, *Postmodernism, Theory and Methods*, Raja Grafindo
- Prasetyo Teguh, 2013, *Criminalization in Criminal Law*, Nusamedia, Bandung.
- Prasetyo, True and Arie Purnomosidi, 2014, *Building Law based on Pancasila*, Nusamedia, Bandung
- Prasetyo Teguh, 2017, *the Law Reform; Justice Theory Perspective Dignity*, Equal Press, Malang
- Surbakti, Natangsa, 2014, *Restorative Justice; in Frame Empiri, Theory, and Policy*, Genta Publishing, Jogjakarta
- Widodo, Supriyadi, et al, 2016, *SEMA Implementation and Related Seja Narcotics User Placement in Rehabilitation Institute in Surabaya*, ICJR, Jakarta
- Widodo Supriyadi and Ediyono et al, 2017 *Strengthen the Narcotics Act revision Indonesia ; Proposed Civil Society*, Institute for Criminal Justice Reform, Jakarta