

Application Of Restorative Justice In Narcotics Crime Cases

Lidya Rahmadani Hasibuan^{1*}

¹*Department of Legal Studies, Universitas Pembangunan Panca Budi*

*e-mail: lidya.hsb@gmail.com

ABSTRACT

The problem of narcotics (narcotics, psychotropic substances and other addictive substances) is a special crime whose problem spreads nationally and internationally, because its abuse has a negative impact on the lives of society, nation and state. The role of law in this case is to overcome crime through criminal law policy and is one of the efforts in law enforcement. The aim of the research is to determine the Juridical Review of the Implementation of Rehabilitation Institutions at the Prosecution Stage by Prosecutors in Criminal Cases of Narcotics Abuse. Understand the application of Rehabilitation Institutions in the prosecutor's prosecution stage for narcotics abuse through rehabilitation based on Attorney General's guidelines No.18 of 2021. Imprisonment for victims of narcotics abuse, especially children, is a deprivation of liberty and contains a negative side so that the purpose of punishment cannot be realized optimally. Meanwhile, rehabilitation is intended so that people who are categorized as addicts are free from their dependence. Completion of the handling of criminal cases of narcotics abuse through rehabilitation is carried out by prioritizing restorative justice and expediency (*doelmatigheid*), as well as considering the principles of fast, simple and low-cost justice, the principle of criminal justice as a last resort (*ultimum remedium*), cost and benefit analysis, and recovery of the perpetrator

Keywords:

Restorative Justice; Narcotics; Children in Conflict with the Law

1. Introduction

The ongoing Narcotics problem has sparked various efforts to overcome it, not only massive supply reduction and demand reduction efforts but also harm reduction. One form of harm reduction which is also related to demand reduction is rehabilitation for addicts and victims of narcotics abuse. Narcotics rehabilitation is one of the treatment efforts to free narcotics addicts from dependence. Based on Law No. 35 of 2009 article 1 number 13, what is meant by a Narcotics addict is a person who uses or abuses drugs. narcotics and in a state of dependence on narcotics both physically and psychologically.

Narcotics rehabilitation in Indonesia is outpatient and inpatient, some is privately owned and some is government owned. The National Narcotics Agency (BNN) as the leading sector in handling

narcotics has several inpatient rehabilitation places, one of which is the BNN Rehabilitation Center (Babes Rehab BNN). Babes Rehab BNN is the first and largest rehabilitation center owned by BNN. This place provides rehabilitation for narcotics addicts and abusers, both those who come voluntarily (Voluntary) and those with legal cases (Compulsary).

For Compulsary, the period of rehabilitation is counted as a period of serving a sentence. Instead People who are undergoing trial and detention for narcotics cases in prison will be placed in rehabilitation facilities. Of course, not everyone with narcotics cases can be in a rehabilitation center. This really depends on the court decision given by the judge and the results of the integrated assessment at the time of arrest by the Integrated Assessment Team (TAT). Integrated assessment results (TAT) is very important because it will determine whether perpetrators of narcotics abuse are classified as addicts who must be rehabilitated or as criminals who must be imprisoned. This TAT assessment is based on joint regulations from the Chief Justice of the Republic of Indonesia, the Minister of Law and Human Rights of the Republic of Indonesia, the Minister of Health of the Republic of Indonesia, the Minister of Social Affairs of the Republic of Indonesia, the Attorney General of the Republic of Indonesia, the Chief of Police of the Republic of Indonesia, the Head of the National Narcotics Agency of the Republic of Indonesia. No. 01/PB/MA/III/2014, No. 03 of 2014, no. 11 of 2014, no. 03 of 2014, no. PER-005/A/JA/03/2014, No. 1 of 2014, No. PERBER/01/III/2014/BNN concerning Handling of Narcotics Addicts and Victims of Narcotics Abuse in Rehabilitation Institutions.

Not only can the results of the TAT assessment place someone in rehabilitation, but the results of the judge's decision can also place someone who has a legal case in rehabilitation as a form of serving a sentence. Based on the criminal provisions in Article 127 of Law NO 35 of 2009, it can be concluded that the punishment that can be imposed on narcotics abusers is imprisonment. However, in implementing For criminal sanctions in the form of imprisonment, the law requires judges to pay attention to the provisions as intended in Article 54, Article 55 and Article 103.

Article 54, which judges must pay attention to, outlines that narcotics addicts and victims of narcotics abuse must undergo medical rehabilitation and social rehabilitation. The essence of article 55 states that parents or guardians of Narcotics addicts who are not old enough are obliged to report to the public health center, hospital, or medical rehabilitation and social rehabilitation institution appointed by the government to receive treatment. or treatment through medical rehabilitation and social rehabilitation. Meanwhile, narcotics addicts who are old enough must report themselves or be reported by their families to public health centers, hospitals, or medical rehabilitation and social rehabilitation institutions appointed by the Government to receive treatment or care through medical rehabilitation and social rehabilitation. Meanwhile, Article 103 states that the judge will examine the addict's case Narcotics can decide to order the person concerned to undergo treatment and care through rehabilitation if the Narcotics addict is proven guilty of committing a Narcotics crime or decide to order the person concerned to undergo treatment or treatment through rehabilitation if the Narcotics addict is not proven guilty of committing a Narcotics crime.



BNN Babes Rehab data shows that every year there are clients who have mandatory status, either those that have been decided by a judge or entrusted to them by investigators. In 2019 there were 26 clients with mandatory status, consisting of 20 people entrusted by investigators and 6 people from court decisions. In 2020 there were 12 people entrusted by investigators and 3 court decision person. The number of clients is very small compared to the data on the number of suspects in narcotics cases released by BNN in 2020, namely 52,709 people. Based on the substances that were most abused by compulsory clients that year, they were Amphetamine (shabu) and Cannabis (marijuana). This substance is a substance that is currently trending for abuse in Indonesia. The National Narcotics Agency in its 2020 data journal stated that the 3 types of narcotics most frequently abused in Indonesia in 2019 were marijuana and crystal methamphetamine. The abuse and illicit trafficking of narcotics is very detrimental and endangers the lives of society, the nation and the state. Abuse Narcotics are because on the one hand, narcotics are drugs or substances that are useful in the field of treatment or health services and the development of science, while on the other hand they can also cause dependence which is very detrimental if misused or used without strict and careful control and supervision.

Attorney General, Sanitiar Burhanudin has issued Prosecutor's Guidelines no. 18 of 2021 concerning Settlement of Criminal Cases of Narcotics Abuse through Rehabilitation with a Restorative Justice Approach as Implementation Principle of Dominus Litis Prosecutors (public prosecutors). This regulation was issued as a reference for public prosecutors in handling narcotics abuse cases through rehabilitation in accordance with the dominus litis principle, namely the prosecutor as the controller of a case. It is hoped that these guidelines can optimize other punishment options, namely rehabilitation, to address the problem of overcrowding in correctional institutions (Lapas).

As is known, overcrowded prisons occur in almost all regions of Indonesia. Based on the Corrections database, the number of prison inmates in Indonesia is 271,068 people. Of this amount, A total of 141,842 people were convicted of narcotics cases. If we look at the number of prison inmates, more than 50% are overcrowded in all prisons in Indonesia is a prison inmate for a narcotics crime, of which 108,970 people are convicted drug addicts or abusers. The issue of overcrowding has also become a serious concern for community and government as stated in the 2020-2024 Medium Term Development Plan in the context of improving the criminal justice system through a restorative justice approach.

The publication of Guideline No. 18 of 2021 is a reorientation of law enforcement policies in implementing the duties and authority of the Prosecutor's Office in the field of prosecution which is carried out by optimizing rehabilitation institutions. Of course, it will change the work pattern of public prosecutors in narcotics abuse cases. Guideline No. 18 of 2021 is the basis for all public prosecutor activities in terms of handling cases related to the law of which 108,970 people are convicted drug addicts or abusers. The issue of overcrowding has also become a serious concern for community and government as stated in the 2020-2024 Medium Term Development Plan in the context of improving the criminal justice system through a restorative justice approach.



The publication of Guideline No. 18 of 2021 is a reorientation of law enforcement policies in implementing the duties and authority of the Prosecutor's Office in the field of prosecution which is carried out by optimizing rehabilitation institutions. Of course, it will change the work pattern of public prosecutors in narcotics abuse cases.

2. Methods

According to Soerjono Soekanto, research is the main means of developing science and technology. This is because research aims to reveal the truth systematically, methodologically and consistently. Through the research process, analysis and construction of the data that has been collected is carried out.

Research is a scientific means for the development of science and technology, so the research methodology applied must always be adapted to the science that is its parent. Research methods are scientific efforts to use and solve a problem based on certain methods. Study in thesis This use study Normative Juridical , whereas approach Which used is approach correlational. This type of approach aims to see whether there are two or more variables has a relationship or correlation or not. Starting from a theory, an idea experts, or researchers' understanding based on their experience, then developed become problems Which submitted For obtain justification (verification) in form support data primary in field. The author uses this form of quantitative research because it is to find out How Application criminal law policy towards resolving non-narcotics crimes through rehabilitation at the prosecution stage.

Primary data obtained is based on results of interviews with staff/employees and prosecutors at the Tebingtinggi City District Attorney's Office. Then secondary data is the data includes official documents, books, results study Which tangible report. In general, secondary data is ready to be created and can be used immediately. Secondary data can be differentiated, namely:

1. Secondary data of a personal nature includes:
 - a. Personal documents, such as letters, diaries and so on.
 - b. Personal data stored at the institution where the person concerned has worked or is currently working.
2. Public secondary data includes:
 - a. Archive data is data that can be used for scientific purposes by scientists.
 - b. Official data on government agencies, which is sometimes not easy to obtain, because it may be confidential.
 - c. Other published data include Supreme Court jurisprudence

Tertiary legal materials, namely supporting materials that provide instructions and explanations for primary legal materials and secondary legal materials such as general dictionaries, legal dictionaries, magazines, scientific journals, newspapers, periodicals and the internet are also additional to the writing of this research.

3. Discussion

Narcotics abuse is the use of narcotics not for medicinal purposes, but in order to enjoy its effects, in excessive amounts, more or less regularly, lasting quite a long time, thereby causing physical health problems, mental health problems and social life. narcotics by teenagers is a serious problem, because narcotics abuse can damage the future of teenagers. According to a report from the Drug Addiction Hospital (RSKO) in Jakarta, of the sufferers who are generally aged 15-24 years, many are still active in middle and high school, even college. The younger generation is a strategic target for the Narcotics trafficking mafia. Therefore, the younger generation is very vulnerable to this problem.

The following are the factors that cause someone to become an abuser narcotics:

1. The cause of oneself is the inability to adapt to the environment. Weak personality and lack of self-confidence, unable to control oneself, the urge to know, want to try, want to imitate, the urge to want to adventure and experience mental pressure so that they don't think about the consequences in the future regarding the dangers of narcotics.
2. Causes originating from the family (parents) Attention from one or both parents is one of the factors that causes someone to use narcotics. Not getting attention and affection from parents, or also disharmonious family conditions (no open communication within the family). Parents do not provide supervision to their children. Parents spoil their children too much. Parents are busy making money or pursuing a career so that attention to their children becomes neglected.
3. Cause from friends or peer group.
There is one or several group friends who are Narcotics users or there are group members who are Narcotics dealers, or there are invitations or seductions from group friends to use Narcotics and also coercion from group friends to use Narcotics because if they don't want to use they will be considered. disloyal friends Want Showing attention to friends is another factor that causes someone to abuse narcotics.
4. The causes originate from a society that is indifferent or doesn't care. Loose social supervision in society, difficulty finding work and also weak law enforcement resulting in many law violations in society, poverty and high unemployment, declining public morality are other factors that cause narcotics abuse.

Legal Protection for Victims of Narcotics Abuse According to Law Number 35 of 2009 concerning Narcotics, narcotics addicts and abusers are "Self-victimizing Victims", namely victims of self-inflicted crimes. Because drug addicts and abusers experience dependence (addiction) as a result of themselves abusing narcotics. However, addicts and abusers should receive protection so that they can recover from this dependency. The Double Track System is a two-track system regarding sanctions in criminal law, namely having types of criminal sanctions and action sanctions. The focus of criminal sanctions is shown to the wrongdoing that has occurred carried out by someone through imposition suffering so that the person concerned becomes deterred. The focus of action sanctions is more targeted in efforts to provide help to the perpetrator so that he changes. More criminal sanctions emphasizes retaliation while action sanctions originate from basic ideas community protection and guidance or care for the perpetrator.

Based on the above, it can be concluded that addicts and abusers narcotics as Self-victimizing Victims , namely victims as perpetrators, in this case victimology positions drug addicts and abusers as victims, even though he is the victim of his own actions. And when it is said as victims, addicts

and abusers should be given protection, coaching, and treatment for drug addicts and abusers change for the better. In Law Number 35 of 2009 concerning narcotics, there are states that narcotics addicts and abusers are required to undergo rehabilitation in the form of medical rehabilitation and social rehabilitation and for bookies, syndicates, and Narcotics traffickers are punished with imprisonment. In criminal proceedings, for illegal producers and traffickers of narcotics it does not become problem because it has been explained in Law Number 35 of 2009 concerning Narcotics , the problem is the treatment of addicts and drug abusers. narcotics, basically they are victims of other people's criminal acts other. The problems in handling victims of narcotics abuse are: differences of thought between different narcotics law enforcement officers. Investigators usually use articles that should not be given to persons addicts and victims of narcotics abuse, this leads to sentences prison in court. Legal officers should look more carefully at Law No 35 of 2009 concerning Narcotics and other legal regulations governing handling narcotics abuse. Law Number 35 of 2009 concerning Narcotics has stated that for addicts and victims of narcotics abuse must undergo rehabilitation in the form of medical rehabilitation and social rehabilitation.

4. Closing

As for the Conclusion and San in Journal This is as following :

5. Conclusion

1. Drug rehabilitation is a right for everyone who is addicted to drugs, however, those involved and proven to have committed criminal offenses must still receive punishment in accordance with existing regulations. Prison sentences for drug victims and addicts contain a negative side that can make efforts to develop drug victims and addicts fail and not provide recovery from their addiction. Rehabilitation is better than prison.
2. Prosecutor's Guide No. 18 of 2021 concerning Settlement Criminal Abuse Case Narcotics through Rehabilitation with Restorative Justice Approach as Implementation of the Prosecutor's Dominus Litis Principle (public prosecutors) . those rules issued as a reference for para public prosecutors in handling narcotics abuse cases through rehabilitation in accordance with the dominus litis principle, namely the prosecutor as the controller of a case. It is hoped that these guidelines can optimize other punishment options, namely rehabilitation, to address the problem of overcrowding in correctional institutions (Lapas).

6. Suggestio

1. Policy has been very good in Narcotics Crime cases, however there are still many obstacles to the rehabilitation process related to costs and the ability of Narcotics victims to obtain the rehabilitation process for their recovery. The government or related parties need to provide cost reductions and adequate facilities for rehabilitation institutions for narcotics addicts.
2. Attorney General's Guidelines No. 18 of 2021 is a regulation that provides leniency in sentences for Narcotics addicts. We hope that this regulation will not become a new problem for the sake of justice at the Prosecution stage because of the Rehabilitation process recommended by the

Prosecutor by conducting a Quick Examination trial in Court. This fast prosecution process is intended to be in the public spotlight and will continue to be supervised so that there remains justice for defendants of narcotics crimes .

7. References

- Abdurahman, Muslan, Sociology and Legal Research Methods , UMM Press, Malang, 2009
- Bakir, R. Sutoyo, Complete Indonesian Dictionary , Karisma Publishing Group, Tangerang, 2009
- Dirdjosisworo, Soedjono, Social Pathology , Alumni, Bandung, 1982.
- Lisa, Juliana, Drugs, Psychotropics and Mental Disorders , Nuha Medika, Yogyakarta, 2013.
- Makarao, Moh. Taufik, et al, Narcotics Crime , Ghalia Indonesia, Bogor, 2005.
- Mardani, Drug Abuse in the Perspective of Islamic Law and National Criminal Law, Raja Grafindo, Jakarta, 2007.
- Mardani, An Anthology of Actual Law , Ghalia Indonesia, Jakarta, 2008.
- M. Arief and Elisatris Gultom, Education, Urgency of Crime Victim Protection , PT. Raja Grafindo Persada, Jakarta, 2007.
- M. Hikmat , Mahi , Beware of Drugs, Teens Beware , PT. Graffiti, Bandung, 2007.
- M. Sianipar, Togar, Development of Drug Crime , Paper at the Narcotics seminar at the Department of Justice and Human Rights on 22 July 2003.
- M. Yahya Harahap, 2012, " Discussion of Problems and Application of the Criminal Procedure Code for Investigation and Prosecution " , Jakarta, Sinar Grafa.
- Sudikno Mertokusumo," Getting to Know the Law is an Introduction", Liberty, Yogyakarta, 2008
- Martiman Prodjohamidjojo, "Understanding the Basics of Indonesian Criminal Law", Pradnya Paramita, Jakarta, 2007.
- EY Kanter and SR Sianturi, "Principles of Criminal Law in Indonesia", Storia Graphic, Jakarta. 2008

