RESTORATIVE ASSESSMENT BASED ON THE RESULTS OF INTEGRATED ASSESSMENT PROSECUTION OF RESTORATIVE JUSTICE ABUSE

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Abstract

Narcotics Law has ensure rehabilitation medical and social for abuser narcotics. However, on level enforcement law, rehabilitation abuser narcotics no as well as immediately done; abuser narcotics must go through the appraisal process more first. In system Justice criminal, stage prosecution hold strategic role. With Thus, it is also important to know the appraisal process for abuser narcotics on Step prosecution, because of that, article this will analyze problem in the assessment process addict narcotics on Step prosecution and how optimizing restorative justice in prosecution user narcotics based on recommendation assessment integrated? For answer problem the used method study normative empirical descriptive and qualitative. Research results show that on Step prosecution, there is a number of problem in the assessment process for abuser narcotics. Difference view enforcement law dominate problem this; Settings evaluation integrated have factor strength binding, means, and weak infrastructure, and culture law Public no understand benefit evaluation and more choose criminal prison for abuser narcotics. one approach potential for complete problem this is justice restorative. In Thing this the application of restorative justice is optimized with socialization and education about evaluation user drugs, increase coordination enforcement law, raising funds for implementation assessment, and enhancement facility and facility evaluation user drugs.

Keywords: Integrated Assessment, Restorative Justice, Narcotics Abusers

A. Introduction

One of the serious problems in Indonesia today is drug abuse.¹ Therefore, in 2017 the Indonesian government declared war on narcotics. Data from the National Narcotics Agency (BNN) in 2017 showed that 46,537 narcotics cases were successfully uncovered.² Furthermore, in 2019, according to BNN data, there were around 3.6 million narcotics users. Drug abuse is not only a national problem but also a global problem. Narcotics abuse is detrimental to health and various aspects of people's lives, such as social and security aspects, education, and work. Based on BNN data, North Sumatra Province ranks at the top of the list of narcotics abusers. Narcotics abusers in North Sumatra Province are the highest compared to other provinces,

amounting to 1.7 million people. North Sumatra was again listed as the region with the highest number of narcotics abusers in 2020, as shown in the table below.

Table 1. Data on Narcotics Abuse in Indonesia in 2020

<table>
<thead>
<tr>
<th>No</th>
<th>No Region</th>
<th>Case</th>
<th>prisoner</th>
<th>Think</th>
<th>Prisoner</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>North Sumatra</td>
<td>1,513</td>
<td>1,506</td>
<td>1,928</td>
<td>1,586</td>
</tr>
<tr>
<td>2.</td>
<td>East Java</td>
<td>1,140</td>
<td>1,330</td>
<td>1,373</td>
<td>1,172</td>
</tr>
<tr>
<td>3.</td>
<td>DKI Jakarta</td>
<td>998</td>
<td>872</td>
<td>1,177</td>
<td>574</td>
</tr>
<tr>
<td>4.</td>
<td>West Java</td>
<td>574</td>
<td>803</td>
<td>708</td>
<td>517</td>
</tr>
<tr>
<td>5.</td>
<td>South Sulawesi</td>
<td>478</td>
<td>543</td>
<td>665</td>
<td>492</td>
</tr>
</tbody>
</table>

Based on the table above, law enforcement against narcotics abuse cases which are dominated by addicts and victims generally end up in prison. The development of narcotics abusers in prisons is not effective in repairing damaged souls and health. The criminal approach has more potential to destroy abusers than narcotics itself. The results of a study by the Indonesian Drug Victims Brotherhood (PKNI) show that imprisonment causes many perpetrators of narcotics abuse to lose their livelihoods. Therefore, narcotics abusers are not necessarily commercial dealers; Narcotics abusers who are generally addicts and victims must be rehabilitated.

Various efforts have been made by the Indonesian government to eradicate narcotics abuse. From the aspect of legal substance, the government has enacted Law Number 35 of 2009 concerning Narcotics (hereinafter referred to as the Narcotics Law) to support efforts to eradicate criminal acts of narcotics abuse. The enactment of the Narcotics Law simultaneously changes the paradigm of handling narcotics abusers from retributive to restorative through an assessment process to determine whether they are rehabilitated medically and socially.

Every addict and Narcotics abusers have the same opportunity to the laws and regulations to obtain rehabilitation. This effort is believed to be able to break the chain of drug abuse. However, rehabilitation requires an optimal assessment process for drug abusers.

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4 Infographics of P4GN Quarter IV 2020.

5 Look Article 54 of Law Number 35 of 2009 concerning Narcotics.
In the rehabilitation of narcotics abusers, as part of the criminal justice system, the prosecution stage plays a vital and strategic role in the assessment process. Therefore, the process of assessing the prosecution stage is also important. Moreover, the narcotics eradication policy has not separated the victims and perpetrators of narcotics abuse. The Narcotics Law also tends to multi-interpretation and elastic with the provisions of Article 127 paragraph (3). This provision opens opportunities for law enforcement to demand compensation for narcotics abusers so that rehabilitation efforts are not optimal and tend to prioritize criminal sanctions rather than breaking the chain of narcotics circulation.

Novelty in study article focused on rehabilitation that requires an assessment process optimal for drug abusers. This assessment aims to determine the role of people suspected of abusing narcotics, such as addicts, victims, couriers, and dealers. This assessment process is very important to determine whether or not medical and social rehabilitation is appropriate for drug abusers. Implementation of the assessment at the stage of prosecution of narcotics addicts has been carried out in total prosecution. So far, various problems in the Narcotics Law have caused the integrated assessment process to not be optimal.

So, guarantee rehabilitation medical and social services for narcotics abusers are not optimal and are even limited to slogans. This integrated assessment process is not optimal, causing narcotics abusers to end up in prisons because rehabilitation is not carried out.

Leave from background As described above, by choosing North Sumatra Province as the research location, the authors are interested in conducting research on two problems, namely, how is the assessment process for narcotics addicts at the prosecution stage? and how to optimize restorative justice in the prosecution of narcotics users based on the recommendation of an integrated assessment? To answer these two problems, descriptive and qualitative normative empirical research methods are used.
B. Discussion

1. Drug Addicts Assessment Process at Prosecution Stage

The crime of narcotics abuse is still a subject of reflection and homework to this day. In 2021, the residents of the Correctional Institution (Lapas) will be dominated by drug abuse convicts.\(^6\) Around 5.6% or 137,089 inmates undergoing training in prisons are perpetrators of narcotics abuse. This condition is caused by the rampant punishment for narcotics abusers, even though rehabilitation is a better option to carry out.\(^7\) Giving punishment not only provides a deterrent effect; Punishment must also be able to educate prisoners to be better human beings than before.\(^8\) The punishments that have dominated narcotics abusers can turn inmates into more evil. So rehabilitation is the right solution for drug abusers.

As is known, the Narcotics Law adheres to a double-track sanctions system, or better known as a combination of action sanctions and criminal sanctions.\(^9\) Rehabilitation itself is one of several forms of action sanctions. The provisions of Article 103 of the Narcotics Law stipulates that judges can assign narcotics addicts to undergo treatment or the treatment process. Rehabilitation is urgent because in its dynamics criminalization has not been able to reduce the number of narcotics abuse. Narcotics abuse convicts who have completed training in prisons have not changed much when they return to society. Some of them even repeated their actions. Thus, criminal sanctions are not a solution in efforts to eradicate criminal acts of narcotics abuse in Indonesia. This has been realized in the Circular Letter of the Supreme Court of the Republic of Indonesia No. 4 of 2010, which states that:

1) The category of victims and users generally dominates prisoners and convicts of narcotics cases. When viewed from the health aspect, they are people who are sick and need healing. Thus imprisonment has put aside the interests of coronation and treatment, so imprisonment is not the right solution.
2) Condition of prisons in Indonesia will only worsen the health and mental conditions of drug abusers.

Rehabilitation medical and The social status of narcotics abusers is increasingly urgent considering the effects of dependence on the perpetrators so that they require treatment to restore their mental and physical conditions. Therefore, judges need to consider that the perpetrators of narcotics abuse are also victims who need to receive treatment through rehabilitation. Doctors, psychologists, BNN, Polri, and Kemenkumham which are an integrated assessment team were formed with the task of assessing narcotics abusers consisting of victims of narcotics abuse and narcotics addicts. One of the law enforcers who are members of the integrated assessment team is the Attorney General's Office. Public Prosecutors who are members of the Integrated Assessment Team are tasked with:

1) Analyzing a person caught red-handed in connection with narcotics abuse.

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2) Carry out assessment activities, medical analysis, psychosocial, and provide rehabilitation recommendations.

Next in doing Based on the results of the assessment and analysis, the prosecutor can also make a decision in the form of a recommendation for a person to be rehabilitated or not eligible for rehabilitation. As is the case in North Sumatra Province, based on records from the North Sumatra Province National Narcotics Agency (BNNP Sumut), from 2017 to August 2021, 160 narcotics crime cases were recorded. The number of case files assessed is 1 (one) case. The reasons for the assessment are:

1) The suspect is a narcotics addict who was arrested with a positive urine test result and a number of evidences (SEMA); and
2) The suspect is not involved in a narcotics illicit trafficking network.

Furthermore, the Prosecutor's data Medan State showed 6,031 narcotics crime cases in the 2018-August 2021 period. Of these, 27 narcotics crime cases were assessed. According to Ramboo Loly Sinurat, an assessment is needed because an integrated assessment mechanism for narcotics abusers is a form of concern for handling narcotics abusers in Indonesia. The assessment action was carried out to determine the condition of the resident due to drug abuse, including medical and social aspects. This is so that there is a commonality of law enforcement in terms of giving criminal sanctions or providing rehabilitation to drug users. While the number of narcotics crime cases that were not tried was 6004 cases, and no assessment was carried out because they were not proven and did not include qualifications as stated in BNN Regulation No. 11 of 2014.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of cases</th>
<th>Assessment carried out</th>
<th>Assessment not done</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>1,023</td>
<td>27 cases</td>
<td>6.04 cases</td>
</tr>
<tr>
<td>2019</td>
<td>1,772</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2020</td>
<td>2,159</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2021*</td>
<td>1,077</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Based on the data above, criminal sanctions are still dominantly imposed. When compared with the number of cases processed by the Medan District Attorney and the North Sumatra BNNP, it is known that the judge's decision in the form of an obligation to participate in a rehabilitation program for perpetrators of narcotics abuse is relatively minimal. The dominance of criminal sanctions in criminal cases of narcotics abuse is part of efforts to eradicate narcotics abuse. However, it does not mean that criminal sanctions are the only option in eradicating the crime of narcotics abuse. If it is associated with recovering the perpetrator's dependence on narcotics, then criminal sanctions tend to be useless for the convict.

Anyone caught red-handed or being investigated at the stage of investigation by the Police and prosecution at the Prosecutor's Office can apply for medical rehabilitation or social rehabilitation. The assessment will determine whether or not rehabilitation of a person suspected of abusing narcotics can be carried out or not. As long as the perpetrators of narcotics

10 Interview results with Head Field Eradication North Sumatra BNNP Narcotics.
11 Interview results with Head attorney Medan State.
abuse are not purely involved in the distribution of narcotics, the assessment carried out on suspects of narcotics abuse leads to the provision of rehabilitation recommendations. The severity and involvement of the perpetrators of narcotics abuse is known through the analysis of the Integrated Assessment Team. The implementation of an integrated assessment and placement of narcotics abusers in rehabilitation institutions is carried out by referring to the mechanism shown in the following figure:

![Figure 2. Mechanisms for implementing an integrated assessment and placement of narcotics addicts in legal proceedings to rehabilitation institutions](image)

Judging from the institutional aspect, the assessment of narcotics abusers has a noble purpose. However, there are crucial conditions at the prosecution stage that have the potential to render the assessment process ineffective. As revealed by Ramboo Loly Sinurat, at the prosecution stage, the problem in the assessment process for Narcotics addicts is that the Judge does not agree with the Public Prosecutor to conduct the assessment. In addition, according to Ramboo Loly Sinurat, the obstacles/barriers to the implementation of an integrated assessment at the prosecution level are inadequate facilities and infrastructure. In line with the opinion of the Head of the Prosecutor's Office at the Medan District Attorney above, according to the Head of the Narcotics Eradication Division of the BNNP North Sumatra, the obstacles to implementing an integrated assessment are:

1) There are differences of opinion among law enforcement officers in dealing with narcotics cases;
2) The legal provisions governing the integrated assessment have no legal force; and
3) Lack of budget/funding sources in the implementation of the integrated assessment.

About factor opinion between law enforcers in dealing with narcotics abuse cases, this is due to the weak binding force of the legal provisions governing the assessment process. In addition, subjective factors of law enforcement officers and internal and external factors of BNN also affect the implementation of rehabilitation. To overcome this, BNN made several efforts, including optimizing coordination between rehabilitation institutions, investigators, addicts, and victims of narcotics abuse.

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13 Interview results with Head attorney Medan State.
14 Interview results with Head Field Eradication North Sumatra BNNP Narcotics.
Novelty results research, implementation the assessment at the stage of prosecution of narcotics addicts has been carried out in total prosecution. Due to several obstacles, the assessment process in the context of law enforcement against narcotics addicts has not been able to carry out full or real law enforcement. Problems in the assessment process for narcotics addicts in general are differences in views between law enforcement officers in assessing criminal acts of narcotics abuse, the weak legal power of assessment arrangements in existing legal instruments, and the lack of infrastructure in the form of budget/funding sources as well as human resources in the implementation integrated assessment, as well as the perspective of the community who prefer imprisonment over assessment.

Effort resolve problem In the implementation of the assessment at the stage of prosecuting narcotics addicts in North Sumatra, it is carried out through pre-emptive, preventive, and repressive methods. So that the perpetrators of narcotics abuse know and understand the sanctions that are threatened, this effort is carried out continuously. The aim of this ongoing effort is to understand the negative consequences and threats of punishment for drug abusers who have not been caught. Relevant stakeholders must be optimal in realizing ideal law enforcement against narcotics abusers. Relevant stakeholders must optimize their capabilities, create quality facilities and personnel, and allocate an ideal budget for assessment purposes. No less critical, education needs to be done so that people understand and realize the importance of rehabilitation in efforts to overcome drug abuse.

2. Restorative Optimization Justice in Prosecuting Narcotics Users Based on the Results of Integrated Assessment Recommendations

Crime Follow criminal drugs is problem international which faced many country in world, including Indonesia. Appearance crime this influenced by various factor like progress technology, globalization and current information which fast. Moreover, fact that perpetrator want to get profit big in time short in context economy which difficult becomes trigger crime drugs. Wrong one institution enforcer law which play a role important in eradication act criminal drugs is Police Country Republic Indonesia, and because circulation drugs which so complex, so required effort eradication which thorough, number long and firm.15

Process handling act criminal by police investigator must honor principle validity, that is all action police must based on law. Investigator Police sued for doing Duty by professional, transparent and accountable to every case criminal which handle it. To use realization supremacy law which reflect certainty law, flavor justice and benefit. Wrong one policy which taken by Police Country Republic Indonesia in handling act criminal is with enforce

Regulation Police Number 8 Year 2021 about Handling Follow Criminal Based on Justice Restorative. Regulation Police this enforced with consideration that Police Country Republic Indonesia need realize solution act criminal with put forward justice restorative which emphasize recovery return on state beginning and balance protection and interest victim and perpetrator act criminal which no oriented on sentencing is something needs law society.

Besides that Police answer development needs law Public which Fulfill flavor justice all party given authority in accordance with Chapter 16 and Chapter 18 Constitution Number 2 Year 2002 about Police Country Republic Indonesia, formulate draft new in enforcement law

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criminal which accommodate norm and score which apply in Public as solution at a time give certainty law especially benefit and justice society. Justice restorative according to Chapter 1 number 3 Regulation Police Number 8 Year 2021 is solution act criminal with involve perpetrator victim family perpetrator family victim figure Public figure religion figure custom or holder interest for together look for solution which fair through peace with emphasize recovery return on state again.

Along with its development, the Indonesian criminal law system is entering a new phase. Restorative justice is a new form of Indonesian criminal law. Restorative justice is oriented towards achieving justice by restoring conditions damaged by criminal acts. Unlike the case with retributive justice, which emphasizes retaliation or compensation. In other words, restorative justice is a paradigm shift in sentencing that focuses on achieving justice for victims and perpetrators of criminal acts. In essence, narcotics users who do not participate in the dark network of dealers or dealers are categorized as self-victimizing victims or victims of their actions. Therefore, the ideal sanction for him is a sanction that is imbued with restorative justice, not imprisonment which emphasizes revenge. Restorative justice is in line with the principle that the perpetrators of narcotics abuse are at the same time victims, so that they require treatment.

Although the policy formulation has mandated that narcotics abusers get rehabilitation, the rehabilitation program has not been implemented optimally, and narcotics abusers who are designated as prisoners with imprisonment are increasing. Based on the Attorney General's Regulation Number 11 of 2021 concerning Guidelines for Handling Narcotics Cases and/or Narcotics Precursor Crimes, there is a special approach in preparing criminal charges in narcotics abuse cases. This lawsuit is prepared by considering the roles and qualifications of the perpetrators, actions, evidence, and casuistic conditions in a balanced and comprehensive manner. Investigations into narcotics abusers are expected to provide justice, legal certainty, and benefits.

Furthermore, the letter of the public prosecutor's claim against the defendant must include the period of rehabilitation and the location. The inclusion of rehabilitation in the prosecutor's request must be based on the recommendation of the integrated assessment team. Based on the research results, in an effort to optimize restorative justice at the stage of prosecuting narcotics abusers based on the recommendation of an integrated assessment, the following efforts are made:

a. To provide medical and legal understanding to the integrated assessment team, an integrated assessment program is socialized. The socialization must at least explain the purpose of the assessment, the purpose of the assessment, and the real impact of the assessment on narcotics abusers. Because narcotics abusers are people who are sick and

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experience health problems due to the effects of narcotics, rehabilitation is considered more effective.\textsuperscript{19}

b. In-depth coordination with the integrated assessment team and the general public regarding the integrated assessment program.

c. Considering that investigators, public prosecutors, and judges are decision makers and play a vital role in the success of the assessment, coordination between law enforcers is carried out regarding the concept of decriminalization and rehabilitation of narcotics abusers.

d. Based on the findings of the prison, the rehabilitation budget is considered not ideal because it does not comply with the established standards, both in terms of nominal value and the number of rehabilitation participants. Therefore, an increase in the integrated assessment budget was carried out.

e. Facilities and infrastructure are important factors that influence the imposition of sanctions on narcotics abusers. Therefore, the facilities and amenities are upgraded and equipped to optimize the assessment process.\textsuperscript{20}

In line with the above efforts, coordination between law enforcers is also important to realize restorative implementation optimal justice in the prosecution of narcotics abusers. Coordination between law enforcement agencies in these various institutions greatly influences the success of rehabilitation. During the assessment process for narcotics abusers, coordination of the implementation of medical and social rehabilitation was seen. This coordination is a joint effort of law enforcement to ensure the safety of narcotics abusers from the dangers of narcotics and the effects of their dependence. The understanding of investigators, public prosecutors, and the National Narcotics Agency regarding the vital role of medical and social rehabilitation for narcotics abusers is very necessary for an optimal assessment process.

So far, the number of victims of narcotics abuse in Indonesia continues to increase from year to year. This condition shows that the application of criminal law, especially in correctional institutions, is not effective for narcotics abusers. Therefore, the application of criminal sanctions against perpetrators of narcotics abuse needs to be reviewed and in-depth. Rehabilitation is one of the important aspects in efforts to eradicate narcotics abuse but is often neglected and escapes the view of law enforcement.\textsuperscript{21} Until now, the Indonesian criminal justice system still places narcotics abusers as perpetrators (criminals); this often results in the neglect of rehabilitation efforts.\textsuperscript{22}

Referring to the above review, in order to optimize restorative justice at the stage of prosecuting narcotics users based on the recommendations of an integrated assessment, socialization and coordination regarding the assessment program, increasing the budget, as well as repairing and adding facilities. Special efforts are needed to protect perpetrators of narcotics abuse from the adverse effects and dependence of narcotics. Narcotics abusers can experience depression, get sick, and even die if there is no special treatment and care. This condition is not expected to occur in the state judicial process based on Pancasila as in


\textsuperscript{20} Interview results with Head attorney Medan State.


Indonesia. Therefore, with the integrated assessment, there is a change for the better in the law enforcement system against narcotics abuse. All law enforcers who are members of the TAT have great expectations from the community to provide humane solutions in resolving criminal cases of narcotics abuse.

C. Conclusion

Assessment process prosecution to abuser narcotics conducted with total prosecution. However, the appraisal process on Step prosecution not yet conducted by whole or actual enforcement. This thing caused by a lot challenges faced by the prosecutor's office, among others are weak aspect law, existence dispute between enforcer law, and lack of facilities adequate, good from side source power man nor funding as well as the mentality of the prisoners who are still convict. Score rehabilitation. Enhancement justice restorative in prosecution user drugs based on recommendation assessment integrated could conducted with To do a number of different efforts, such as socialize the Assessment Team Integrated to the assessment program, improve coordination enforcement law, improve budget for assessment, implementation, and enhancement as well as complete facility and necessary equipment.
A. Journal


B. Internet


C. Legislation

Law Number 35 of 2009 concerning Narcotics