

IMPLEMENTATION OF REHABILITATION OF DRUG ADDICTS AT THE INVESTIGATION LEVEL BY INVESTIGATORS OF THE INDONESIAN NATIONAL POLICE (POLRI)

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Abstract

Law Number 35 of 2009 concerning Narcotics has provided for different treatment arrangements for perpetrators of narcotics abuse, through rehabilitation. Therefore, it is very interesting and important to examine further how the rehabilitation of narcotics addicts is regulated in Indonesian criminal law and how is the implementation of rehabilitation for narcotics addicts at the investigation level by investigators from the Indonesian National Police? To answer these problems, a normative legal research method is used, with a statutory and conceptual approach and uses secondary data obtained from primary, secondary and tertiary legal material sources, as well as using qualitative data analysis techniques. From the research results, it was found that the rehabilitation arrangements for narcotics addicts in Indonesian criminal law are regulated in Law Number 35 of 2009 concerning Narcotics, in the form of medical rehabilitation and social rehabilitation because a victim of narcotics abuse is someone who accidentally uses narcotics because they are persuaded, deceived, deceived, forced, and/or threatened to use narcotics. The implementation of rehabilitation for narcotics addicts at the investigative level by investigators from the Indonesian National Police is carried out selectively either at the investigator's initiative based on certain assessments and considerations or at the suggestion of the addict's family and/or legal advisor. This must refer to the concept of restorative justice, which is based on the principles of justice, public interest, proportionality, punishment as a last resort, and the principles of speed, simplicity and low costs.

Keywords: Rehabilitation, Narcotics, Investigator

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INTRODUCTION

Indonesia is a state of law (rechstaat) that is not based on power (machstaat). Article 1 paragraph 3 of the Constitution of the Republic of Indonesia clearly states that Indonesia is a state of law, which means that all aspects of state life and state life must obey existing laws and uphold

and guarantee human rights for all citizens. States have equal standing before the law (equality before the law).

As the development of science and technology is accompanied by the rise of crime that occurs, one of which is related to narcotics abuse. Narcotics trafficking in Indonesia continues to increase and has even reached a very alarming level. As is known, narcotics are currently not only circulated in big cities but have reached the rural level and the perpetrators of narcotics abuse are not only those who have grown up but have spread to all levels of society ranging from students, students, entrepreneurs, officials, street children, artists and so on.

Currently, drug abuse, especially in Indonesia, has reached an alarming point. This can be seen from the results of research by the National Narcotics Agency in 2021 on Research Results in the Context of Prevention, Eradication, Abuse and Illicit Trafficking of Narcotics (P4GN). The study stated that the prevalence rate of drug abuse in Indonesia increased from 1.80% or equivalent to 4,534,744 people in 2019 to 1.95% or equivalent to 4,827,616 people in 2021 who had used drugs in the age group of 15-24 years and 50-64 years. Narcotics crime cannot be seen as an ordinary crime but has become an extraordinary crime.

One of the methods regulated in the legislation in curing drug dependence is through rehabilitation. Rehabilitation is also a solution to reduce the overcapacity of correctional institutions. Rehabilitation is divided into 2 (two) methods, namely medical rehabilitation and social rehabilitation. Medical rehabilitation is a process of integrated treatment activities to free addicts from narcotics dependence, while social rehabilitation is a process of integrated recovery activities, both physical, mental and social, so that former narcotics addicts can resume social functions in community life.

Rehabilitation is the application of rules, this is very important, because with rehabilitation it can be seen whether the rules are actually applied or not. Drug Law No. 35/2009 addresses drug addicts differently. Before the law was enacted, drug users, dealers, brokers and producers were not treated differently. On the one hand drug addicts or addicts were criminals, on the other hand they were victims. Reality shows that judges' execution of drug cases is still not effective. Most drug addicts are not sentenced to rehabilitation in accordance with the Narcotics Law, but instead are threatened with imprisonment, even though the provisions of the law guarantee rehabilitation, both medical rehabilitation and social rehabilitation, for drug addicts and addicts. In the Narcotics Law, provisions for the rehabilitation of drug addicts are regulated in Articles 54, 56, 103 and refer to Article 127 of Law No. 35/2009. An interesting issue in Law No. 35/2009 is found in Article 103 which states that judges have the right to sentence a person who is proven to be a drug addict, to undergo rehabilitation.

Any abuse of narcotics for those who use the criminal provisions are regulated in Article 127 of Law of the Republic of Indonesia Number 35 of 2009. Article 127 stipulates that every narcotics abuser is threatened with imprisonment while narcotics addicts and victims of narcotics abuse are placed in medical rehabilitation and social rehabilitation institutions.

Victimology review, classifying drug addicts as "*self victimizing* victims", namely victims of their own crimes. Therefore, the judge's verdict in the case of drug addicts is to impose a

sentence of rehabilitation is considered the most appropriate. Because drug addicts are essentially victims of a crime who need treatment or care, and because they are parties who also suffer losses from a crime, namely the crime of drug abuse.

RESEARCH METHODS

This type of research is normative legal research (juridical normative). This normative legal research can also be referred to as doctrinal legal research. Dogmatic legal science examines, maintains, and develops positive legal buildings with logical buildings, which are called "doctrinal" studies or also called "normative" legal studies.

Doctrinal legal research is research that aims to provide a systematic exposition of the legal rules governing a particular field of law, analyze the relationship between one legal rule and another, explain the parts that are difficult to understand from a legal rule, and may even include predictions of the development of a particular legal rule in the future. Doctrinal legal research is literature-based research, the focus of which is the analysis of primary legal materials and secondary legal materials. The data collection technique used in this research is a *library research* technique. Data collection tools can be document studies or literature studies or *library research* to obtain secondary data.

RESULTS AND DISCUSSION

A. Rehabilitation of Narcotics Addicts in Indonesian Criminal Law

1. Provision of Rehabilitation for Narcotics Addicts in Legislation

Law leads to rules such as rules of the game. In this case, the rules are called legal content. The main task of this subsystem is to coordinate and manage various deviations to follow the rules of the game. According to Parson quoted in his book, Bernard L. Tanya explains that law is a basic element of system integration. This is also supported by Steeman who asserts that what formally shapes society is the universal acceptance of normative rules of the game. This normative model should be seen as the most central element of an integrated structure. Bredemeier argues that the role of law in eradicating drug crimes is highly dependent on the normative provisions that serve as the legal basis for law enforcement agencies to enforce the law.

Basically, the imposition of criminal sanctions on victims of drug users cannot change their actions as drug users because the perpetrators are people who are addicted, suffering from pain that should receive treatment and care. However, because the act has been determined as an unlawful act, and has been stipulated in the Narcotics Law, then the act can be subject to criminal sanctions. This is in accordance with the principle of legality stated in Article 1 paragraph (1) of the Criminal Code (KUHP), namely an act cannot be punished, except based on the strength of the provisions of existing criminal legislation.

The regulation of criminal sanctions against drug users for themselves is contained in Article 127 of Law 35/2009, which states:

- 1) Every Abuser:
 - a. Narcotics Group I for oneself shall be punished with a maximum imprisonment of 4 (four) years;

- b. Narcotics Group II for oneself shall be punished with a maximum imprisonment of 2 (two) years; and
 - c. Narcotics Group III for oneself shall be punished with a maximum imprisonment of 1 (one) year.
- 2) In deciding cases as referred to in paragraph (1), judges must pay attention to the provisions referred to in Article 54, Article 55, and Article 103.
 - 3) In the event that the Misuser as referred to in paragraph (1) can be proven or proven to be a victim of Narcotics abuse, the Misuser must undergo medical rehabilitation and social rehabilitation.

The crime of narcotics abuse is a special crime regulated by a special law, namely Law 35/2009 to prosecute defendants who commit narcotics abuse crimes. Narcotics crimes have been transnational in nature carried out using a high modus operandi, sophisticated technology, supported by a wide organizational network, and have caused many victims, especially among the nation's younger generation which is very dangerous for the life of the community, nation and state, so that the old regulation, namely Law 35/2009, is no longer in accordance with the development of the situation and conditions that have developed to overcome and eradicate these criminal acts.

However, Law 35/2009 also regulates rehabilitation for users or addicts, which is found in Article 54, Article 55, Article 56, Article 57, Article 58 and Article 103. Article 103 of Law 35/2009 states that judges who examine cases of drug addicts can do two things:

- 1) Judges examining cases of drug addicts may
 - a. decides to order the person concerned to undergo treatment and/or care through rehabilitation if the Narcotics Addict is found guilty of committing a Narcotics crime; or
 - b. stipulates to order the person concerned to undergo treatment and/or care through rehabilitation if the Narcotics Addict is not proven guilty of committing a Narcotics crime.
- 2) The period of undergoing treatment and/or care for Narcotics Addicts as referred to in paragraph (1) letter a is taken into account as a period of serving a sentence.

In addition to criminal sanctions, Law 35/2009 also regulates action sanctions, explained in Article 54 states:

- 1) Parents or guardians of drug addicts who are not of legal age are obliged to report to public health centers, hospitals, and/or medical rehabilitation and social rehabilitation institutions appointed by the Government to obtain treatment and/or care through medical rehabilitation and social rehabilitation.
- 2) Narcotics addicts who are of legal age must report themselves or be reported by their families to community health centers, hospitals, and/or medical rehabilitation and social rehabilitation institutions appointed by the Government to receive treatment and/or care through medical rehabilitation and social rehabilitation.

Drug addicts who are found guilty are stated that the judge "may" decide to order the person to undergo treatment and/or care through rehabilitation. However, Article 54 of Law No.

35/2009 states that drug addicts and victims of drug abuse are "obliged" to undergo medical rehabilitation and social rehabilitation, so consequently the verdict must order the person to undergo rehabilitation. In other words, verdicts handed down by judges for addicts or drug users for themselves no longer contain the multiple interpretations contained in the word "may", which should read "shall".

The legal basis for drug users, as stipulated in Article 128 paragraphs (2) and (3) of Law 35/2009, provides a guarantee of not being prosecuted with the following criteria:

- 1) Narcotics addicts who are not yet of age and have been reported by their parents or guardians as referred to in Article 55 paragraph (1) shall not be prosecuted.
- 2) Narcotics addicts who are of legal age as referred to in Article 55 paragraph (2) who are undergoing medical rehabilitation 2 (two) times the period of doctor's treatment in hospitals and/or medical rehabilitation institutions appointed by the government shall not be prosecuted.

Judging from these provisions, it is clear that drug users should not be convicted, because drug users, especially those in the stage of addiction, are positioned as victims who should be rehabilitated, both medically and socially. This is in accordance with Article of Law 35/2009.

Rehabilitation is a form of punishment that aims at recovery or treatment. According to Soeparman, rehabilitation is a semi-closed facility, meaning that only certain people with special interests can enter this area. Rehabilitation for prisoners in correctional institutions is a place that provides skills and knowledge training to avoid narcotics.

2. Implementation of Provision of Rehabilitation for Drug Addicts

The implementation of rehabilitative measures against drug addicts or drug addicts as a way to overcome drug addiction cannot be separated from the efforts of the government and law enforcement officials in implementing rehabilitative measures against drug addicts and drug addicts. When implementing the regulation as a guideline for handling drug addicts and addicts in rehabilitation facilities, in reality there are differences in its application by both the government and law enforcement officials. The differences in implementation are arrest, arrest of drug addicts or addicts during the investigation process until trial, conducting investigations and rehabilitation based on the recommendations of the evaluation team, then jury deliberations and verdicts.

According to Article 2 of the Joint Regulation that has been formed by the government and law enforcers, each institution in the Joint Regulation has a goal which includes the implementation of the process of medical rehabilitation and social rehabilitation at the level of investigation, prosecution, trial and punishment in a synergistic and integrated manner for drug abusers or addicts who are suspects, defendants, or prisoners.

B. Implementation of Rehabilitation of Narcotics Addicts at the Investigation Level by Investigators of the Indonesian National Police

1. Legal Basis for the Application of Restorative Justice in the Settlement of Narcotics Crime Cases

Restorative Justice is "a shift in punishment in the criminal justice system that prioritizes justice for victims and perpetrators of criminal acts as well as alternative punishments such as social work and others. Bagir Manan stated that the substance of Restorative Justice contains the following principles: building joint participation between perpetrators, victims, and community groups in resolving an event or criminal offense; placing perpetrators, victims, and the community as "Stakeholders" who work together and immediately try to find solutions that are considered fair to all parties (win-win solutions).

Based on Article 2 of Regulation No. 15/2020, considerations for implementing the concept of restorative justice are based on the principles of justice, public interest, proportionality, punishment as a last resort, and the principles of fast, simple, and low cost. The legal basis for its implementation is:

- a. Article 310 of the Criminal Code (KUHP);
- b. Article 205 of the Criminal Procedure Code (KUHP);
- c. Regulation of the Supreme Court of the Republic of Indonesia Number 2 Year 2012 on the Adjustment of the Limitation of Minor Crimes and the Amount of Fines in the Criminal Code;
- d. Law No. 11/2012 on the Juvenile Justice System.
Article 1 point (6) of Law No. 11/2012 states that Restorative Justice is the resolution of criminal cases by involving perpetrators, victims, families of perpetrators/victims, and other related parties to jointly seek a fair solution by emphasizing restoration to the original state, and not retaliation.
- e. Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004,
The general elucidation of the Prosecutor's Office Law explicitly states that the success of the Prosecutor's Office in carrying out prosecution is not only measured by the number of cases submitted to the court, but also the settlement of cases outside the court through penal mediation as an implementation of restorative justice that balances between fair legal certainty and expediency.
- f. Memorandum of Understanding between the Chief Justice of the Supreme Court, the Minister of Law and Human Rights, the Attorney General, and the Chief of the Indonesian National Police Number 131/KMA/SKB/X/2012, Number M.HH-07.HM.03.02/2012, Number KEP-06/E/EJP/10/2012, Number B/39/X/2012 dated October 17, 2012, on the Implementation of the Adjustment of the Limitation of Minor Crimes and the Amount of Fines, Rapid Examination Procedures and the Application of Restorative Justice.
- g. Chief of Police Circular Letter Number: SE/8/VII/2018,
On the Application of Restorative Justice in the Settlement of Criminal Cases.
- h. Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020.
On Discontinuation of Prosecution Based on Restorative Justice.
- i. Decree of the Director General of the General Justice Agency of the Supreme Court of the Republic of Indonesia Number 1691/DJU/SK/PS.00/12/2020, Regarding the Implementation of Guidelines for the Application of Restorative Justice.

- j. Regulation of the National Police of the Republic of Indonesia Number 8 of 2021, concerning Handling Crimes Based on Restorative Justice.

Based on this, it turns out that the State began to think about how to take steps that can restore and/or develop the physical, mental, and social of suspects, defendants, or prisoners of drug cases carried out by treatment, care and recovery programs by issuing a Joint Regulation of the Chief Justice of the Supreme Court, Minister of Law and Human Rights, Minister of Health, Minister of Social Affairs, Attorney General, Chief of Police, Head of the National Narcotics Agency No. 01/PB/MA/111/2014, No. 03/2014, No. 11/2014, No. 03/2014, No. Per005/A/JA/03/2014, No. 1/2014, No. Perber/01/111/2014/BNN on the Handling of Narcotics Addicts and Victims of Narcotics Abuse into Rehabilitation Institutions (abbreviated as "Joint Regulation" effective as of March 11, 2014).

However, a joint regulation is not enough. The Supreme Court saw the need for the application of Restorative Justice to several cases, one of which is narcotics cases, which must be carried out by all district court judges and presidents of high courts through the Decree of the Director General of the General Judicial Agency of the Supreme Court of the Republic of Indonesia Number 1691/DJU/SK/PS.00/12/2020 concerning the Implementation of Guidelines for the Application of Restorative Justice in the General Judicial Environment (abbreviated as "Decree") on December 22, 2020. The main decisions are:

- a. Order all district court judges to implement the restorative justice implementation guidelines in an orderly and responsible manner; and
- b. The President of the High Court is obliged to supervise, monitor and evaluate, and report on the implementation of restorative justice in the jurisdiction of the High Court concerned.

This Decree defines Restorative Justice as the resolution of criminal acts by involving perpetrators, victims, families of perpetrators/victims, and other related parties, to jointly seek a fair solution by emphasizing restoration to the original state, not retaliation (imprisonment). The appendix of this Decree states that restorative justice in case settlement can be used as an instrument of justice restoration and has been implemented by the Supreme Court in the form of policy enforcement (PERMA and SEMA). However, so far its implementation in the criminal justice system has not been optimal.

Restorative Justice in drug cases can be applied if it meets the conditions when caught red-handed by investigators of the Indonesian National Police and / or investigators of the National Narcotics Agency (BNN) found evidence of one-day use in the form of:

- a. Maximum 1 gram of methamphetamine
- b. Maximum Ecstasy 8 Grains
- c. Heroin maximum 1.8 grams.
- d. Cocaine maximum 1, grams.
- e. Maximum 5 grams of marijuana.
- f. Koka leaves maximum 5 grams.
- g. Meskalina maximum 5 grams.
- h. Psilocybin group maximum 3 grams.

- i. LSD group maximum 2 grams.
- j. PCP group maximum 3 grams.
- k. Fentanyl group maximum 1 gram.
- l. The maximum methadone group is 0.5 grams.
- m. Morphine group maximum 1.8 grams.
- n. The petidine group is a maximum of 0.96 grams.
- o. Codeine group maximum 72 grams.
- p. Maximum bufrenorphine group 32 grams

The Registrar must ensure that the Prosecutor has attached the results of the assessment from the Integrated Assessment Team to each submission of case files charged in accordance with Article 103 paragraph (1) and Article 127 of the Narcotics Law. If the case file is not accompanied by the results of the assessment, the judge during the trial can order the prosecutor to attach the results of the assessment from the Integrated Assessment Team. The judge can also ask the defendant to present his family and related parties to be heard as mitigating witnesses in order to pursue a Restorative Justice approach.

2. Mechanisms and Procedures for Settling Narcotics Crime Cases Using a Restorative Justice Approach at the Investigation Stage

The settlement of drug crime cases with Restorative Justice pays attention to the Guidelines and directions of the National Police Criminal Investigation Unit, as follows:

- a. The regulation does not apply retroactively;
- b. Restorative justice case handling, equipped with mindics etc.
- c. Conduct urine/hair/blood tests
- d. Taking suspect statements (BAP), BAP related witnesses, cellbrate communication devices to determine network involvement
- e. Apply for tap geledah, tap sita at the local prosecutor's office (Guidelines for Article 140 of Law No. 35/2009)
- f. 3x24 hours hood time, 3x24 hours catch up, 3rd day submit assessment request to TAT
- g. Submission of assessment through a case title:
 - 1) The police station level is led by dir/wadir as low as kabag wassidik.
 - 2) The police station level is led by the kapolres/wakapolres, with the lowest level being the narcotics unit.
- h. Due to the limited time of arrest, investigators should coordinate with TAT BNNT, BNNK, to immediately issue the results of the TAT assessment / recommendation on the 6th day, then based on the results of the TAT recommendation, the investigator immediately sends the suspect to the designated rehabilitation center;
- i. There are no government rehabilitation centers, so they are placed in private rehabilitation centers with the suspect/family paying for the costs;
- j. Sending the suspect to a rehabilitation center is mentioned so that the rehabilitation center provides a report to the investigator about the implementation of treatment for the suspect;

- k. Once the suspect is in a rehabilitation center, the case is dismissed;
- l. Termination of the case through a case title;
- m. Complete case stop administration by attaching TAT recommendations, Minutes of the delivery of suspects to rehabilitation centers and case title results;
- n. Destruction of BB is carried out 7 (seven) days after receiving the TAP on the status of confiscated BB narcotics from the local prosecutor's office (so that investigators are guided by Article 91 of Law No. 25 of 2009 concerning narcotics);
- o. Addicts and victims of drug abuse who have repeatedly committed criminal acts and are rehabilitated should be prosecuted;
- p. Periodically report on case termination (restorative justice) to Kabareskrim Polri up to Dirlipidnarkoba Bareskrim Polri;
- q. The Directorate of Narcotics of the ranks should open a public complaint channel if there are complaints about the case process carried out with restorative justice.

The general requirements for handling criminal offenses based on Restorative Justice include material and formal requirements. Material requirements include:

- a. Does not cause unrest and/or rejection from the community;
- b. no impact on social conflict;
- c. does not have the potential to divide the nation;
- d. no radicalism and sparatism;
- e. not a repeat offender of a criminal offense based on a court decision; and
- f. not criminal acts of terrorism, criminal acts against state security, criminal acts of corruption, and criminal acts against the life of the person.

In general terms, the handling of criminal offenses based on Restorative justice includes material and formal. Article 6 states:

- 1) The formal requirements as referred to in Article 4 letter b, include:
 - a. peace between the two parties, except for drug crimes; and
 - b. fulfillment of victims' rights and perpetrators' responsibilities, except for drug crimes.
- 2) Peace as referred to in paragraph (1) letter a, is evidenced by a peace agreement letter and signed by the parties.
- 3) The fulfillment of victims' rights and perpetrators' responsibilities as referred to in paragraph (1) letter b, can be in the form of:
 - a. returning goods;
 - b. compensate for the loss;
 - c. replace the costs incurred as a result of the criminal offense; and/or
 - d. compensate for the damage caused by the criminal offense.
- 4) The fulfillment of the rights as referred to in paragraph (3) is evidenced by a statement in accordance with the agreement signed by the victim.
- 5) The format of the peace agreement letter as referred to in paragraph (2), and the statement letter as referred to in paragraph (4), are listed in the Appendix which is an integral part of this Police Regulation.

Specific requirements for Restorative Justice for drug offenses include:

- 1) Special requirements for Drug Offenses as referred to in Article 7 letter b, include:
 - a. Drug addicts in drug abuse victims who apply for rehabilitation;
 - b. at the time of arrest:
 1. evidence of drugs used for 1 (one) day is found with the classification of narcotics and psychotropic drugs in accordance with the provisions of laws and regulations; and
 2. No evidence of drug crimes was found, but the urine test results showed positive for drugs;
 - c. not involved in drug crime networks, dealers and/or bookies;
 - d. an assessment has been conducted by an integrated assessment team; and
 - e. the perpetrator is willing to cooperate with Police investigators to conduct further investigations.
- 2) The integrated assessment team as referred to in paragraph (1) letter d is carried out in accordance with the provisions of laws and regulations.

The procedure for terminating an investigation or inquiry is regulated in Article 15 to Article 18 of the Regulation of the Indonesian National Police Number 8 of 2021 concerning Handling Crimes Based on Restorative Justice.

3. Investigator Considerations in Settling Narcotics Crime Cases Through a Restorative Justice Approach

The application of restorative justice will cause a shift in the direction of punishment and the purpose of punishment which is to punish or revenge by taking responsibility for every act committed into a settlement that emphasizes more on efforts to heal / restore to the original state before the occurrence of a crime. To realize restorative justice in the context of law enforcement in Indonesia, the role of the community is needed, which is not only the object of the law itself but also plays an active role in law enforcement.

The purpose of law enforcement is to build the general public's trust in the law by demonstrating that the law is broadly concerned with the expectations of society. Respect for a person's individual moral values by the law gives greater scope for their morals to implement the rule of law voluntarily. In this case, it relates to diversion as an effort to reduce the use of legal force, trying to resolve and end the conflict.

PERMA No. 4 of 2014 states that deliberations involving several elements are necessary to achieve Restorative Justice, Restorative Justice can be carried out by means of diversion deliberations between the perpetrator and the victim, reparations for the perpetrator to fix everything that was damaged, victim-offender conferences involving the families of both parties and leaders in the community and victim awareness work (an effort from the perpetrator to be more concerned about the impact of his actions)".

In restorative justice, what is prioritized is not the imposition of punishment on the criminal, but how the perpetrator can be responsible for the criminal act committed. And how victims can get justice. Until the situation can be restored to its original state. The main goal of

restorative justice is to create a fair trial. In addition, it is expected that the parties, both the perpetrator, victim, and the community play a major role in it. Victims are expected to obtain appropriate compensation agreed upon with the perpetrator to compensate for the loss and reduce the suffering experienced. In restorative justice, the perpetrator must take full responsibility so that it is hoped that the perpetrator can realize his mistakes.

CONCLUSION

From the results and discussion, the following conclusions can be drawn:

1. In the provisions of Article 54 of Law 35/2009, stating that narcotics addicts and victims of narcotics abuse are "obliged" to undergo medical rehabilitation and social rehabilitation, the consequence is that inevitably the verdict must order the person concerned to undergo rehabilitation. Legal protection for victims of narcotics abuse according to Law Number 35/2009 on Narcotics as stated in Article 54 is to be given medical rehabilitation and social rehabilitation because a victim of narcotics abuse is someone who accidentally uses narcotics because they are persuaded, tricked, cheated, forced, and/or threatened to use narcotics. The provision of rehabilitation is also emphasized in the Supreme Court Circular Letter (SEMA) No. 4 of 2010 concerning the Placement of Abuse, Victims of Abuse and Narcotics Addicts into Rehabilitation Institutions. Then in 2014 between the Attorney General's Office, Police, Ministry of Law and Human Rights, Supreme Court, Ministry of Social Affairs, Ministry of Health signed the 2014 Joint Regulation on the Rehabilitation of Narcotics Addicts. Law No. 35/2009 on Narcotics distinguishes the terms narcotics addicts, self-abuse of narcotics, and victims of narcotics abuse They can all be categorized as people who use narcotics without rights or against the law. However, many experts argue that they are actually victims of drug trafficking syndicates. In addition, the spirit of Law 35/2009 clearly implies that drug abusers or addicts are victims of the criminal acts of others in the form of illegal drug trafficking. For this reason, the provisions of the law stipulate the obligation to undergo medical rehabilitation and social rehabilitation for drug users for themselves, if they are proven to be victims of drug abuse.
2. The implementation of rehabilitation of drug addicts at the investigation level by investigators of the Indonesian National Police is carried out selectively either at the initiative of the investigator based on certain assessments and considerations or at the proposal of the family and / or legal counsel of addicts. This must refer to the concept of restorative justice which is based on the principles of justice, public interest, proportionality, punishment as a last resort, and the principles of fast, simple, and low cost. In restorative justice, what is prioritized is not the imposition of punishment on the criminal, but how the perpetrator can be responsible for the criminal act committed. And how victims can get justice has already been done.

ADVICE

1. To prevent or minimize drug abuse, it is necessary to make a law or joint decision of the relevant public enforcement regarding the obligation to conduct assessments for addicts/victims of drug abuse, so that the force to enforce the provisions of the assessment is

strong. Furthermore, changes should be made regarding the maximum limit of evidence in SEMA No. 4/2010, considering that by experiencing dependence, an addict can consume narcotics more than the maximum limit regulated in the SEMA, then the results of the assessment stating that addicts/victims of narcotics abuse must be rehabilitated should be accepted by the Investigator because the assessment is based on an assessment from a medical team that has been trusted and appointed by the investigator to examine the condition of the addict/victim concerned. So, the nature of the assessment results is not only a recommendation but is absolute for the Investigator.

2. Law enforcers, which in narcotics crimes also include investigators, should conduct socialization about the existence of assessments and the purpose of assessments for addicts/victims of narcotics abuse, so that they can claim their right to submit assessments if law enforcers do not take the initiative to carry out assessments for addicts/victims of narcotics abuse. Socialization can be carried out by providing direct counseling to the community in various regions, or by broadcasting advertisements on television so that information about assessments can be known by many people. In addition, Investigators, Prosecutors, and BNN must have harmony and coordinate with each other in implementing the provisions of Law No. 35 of 2009 concerning Narcotics, so that there are no inconsistencies in implementing the implementation.

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