

6 ADALAH

Buletin Hukum & Keadilan

A Juridical Analysis of Rehabilitation Policy as an Alternative to Criminal Punishment for Narcotics Abusers from a Restorative Justice Perspective

Syaiful Kurniawan, Abu Nawas, Muh Nasir

Universitas Dharma Indonesia UNDMI

 [10.15408/adalah.v6i1.50861](https://doi.org/10.15408/adalah.v6i1.50861)

Abstract:

Rehabilitation policy as an alternative to criminal punishment for narcotics abusers has a strong juridical foundation and is aligned with the principles of restorative justice. However, its effective implementation requires regulatory harmonization, capacity building of law enforcement officers, and adequate rehabilitation facilities. This study aims to analyze the juridical framework of rehabilitation policies for narcotics abusers from a restorative justice perspective. The main issues addressed are: (1) how medical rehabilitation for drug addicts is implemented in legal practice, and (2) what obstacles hinder its implementation and law enforcement efforts. This research employs a normative juridical method using statutory and conceptual

approaches. Legal materials consist of primary sources, including laws and regulations on narcotics and rehabilitation, and secondary sources such as literature, journals, and legal documents. Data were analyzed qualitatively using a descriptive-analytical method. The findings indicate that rehabilitation policies are legally recognized as a form of protection for narcotics abusers, who are essentially victims. Nevertheless, challenges persist, including punitive-oriented perspectives among law enforcement, limited rehabilitation facilities, and suboptimal inter-agency coordination. A restorative justice approach offers a more humane resolution by emphasizing recovery, social reintegration, and the reduction of the negative impacts of imprisonment.

Keywords: *Rehabilitation, Narcotics Abusers, Alternative Sentencing, Restorative Justice.*

A. INTRODUCTION

The danger of narcotics does not only lie in the physical damage experienced by addicts, but also in the disruption of psychological, moral, and social aspects. Indonesia as one of the countries with a large population faces a real threat from the increasingly massive illicit circulation of narcotics. Cases of narcotics abuse are increasingly rampant, this is evidenced by the existence of almost daily press reports from newspapers and electronic media about smuggling, illicit trade, arrests and detentions related to the problem of narcotics abuse. It is not uncommon for narcotics cases to involve international networks that make Indonesia a potential market and transit route. This situation raises concerns because the threat of drugs can be destructive joints of national resilience. The state is then required to be present through adequate legal and policy tools to protect the nation's generation from the threat of narcotics.

Efforts to counter narcotics in Indonesia normatively have been outlined in Law Number 35 of 2009 concerning Narcotics. This law comprehensively regulates the prevention, eradication, and rehabilitation of drug addicts. One of the important provisions is Article 54, which requires narcotics addicts to undergo medical and social rehabilitation. This shows the state's recognition that addicts are not solely perpetrators of criminal acts, but individuals who need treatment. The

presence of this regulation also marks a shift in the legal paradigm from a retributive orientation to a rehabilitative one. Thus, Indonesian criminal law seeks to strike a balance between cracking down on traffickers and protecting addicts.¹

The sociological aspect provides a picture that reinforces the urgency of rehabilitation for drug addicts. Addicts often experience social rejection from society, even after they have undergone rehabilitation. This negative stigma makes it difficult for addicts to return to normal functioning in social life. In fact, the success of rehabilitation is not only determined by medical services, but also by social acceptance. If society continues to view addicts as social waste, then recovery efforts will only become meaningless formalities. Thus, narcotics countermeasures need to touch the social dimension, not only the legal dimension. This view makes the process of social reintegration for ex-addicts very difficult. Many addicts, after undergoing rehabilitation, actually fall back into the world of narcotics because they are not accepted by their environment. The success of rehabilitation is determined not only by the medical aspect, but also by the social support of the community. Without a change

¹ Marwan Effendy, 2005, *The Indonesian Prosecutor's Office Design and Functions and Legal Perspectives*, Jakarta, PT Gramedia Pustaka Utama, p. 25
5 Rufinus Hocmaulana Hutahuruk, 2005, *Corporate Crime Mitigation Through a Restorative Approach to a Breakthrough*, Jakarta: Sinat Grafika, p. 107.

in the paradigm of society, rehabilitation will only be a half-hearted effort. This stigma ultimately closes the way for addicts to return to being productive members of society.

Narcotics are substances or drugs derived from plants or non-plants, both synthetic and semi-synthetic, which can cause decreased and altered consciousness, loss of pain, and dependence.¹ The availability of narcotics, on the one hand, is a useful drug in the field of medicine or health services and scientific development, but on the other hand it causes dependence that is very detrimental if abused.

Indonesia, as a large country with a population of 273,523,615 people, is certainly a potential area for abuse of architecture. Narcotics are a major threat to the survival of a nation that targets all aspects of life and age. The damage caused by narcotics is not only limited to the use of narcotics (damaging both physical and emotional health) but also damages the order of people's lives.

From an economic aspect, narcotics abuse also increases health costs, both incurred by the family, the community, and the state. From a cultural perspective, it will result in the survival of future generations. The continuous use of narcotics will cause a huge addiction, so that if personal finances are no longer able to finance it, it is possible to resort to committing other criminal acts, such as stealing, becoming a narcotics dealer, and so

on.

The activities caused by narcotics abuse continue to be handled by the government in various ways, both by socializing the dangers of narcotics and creating legal products that can provide room for movement for law enforcement in eradicating illicit narcotics trafficking. The main legal product that Indonesia has in combating the abuse and illicit circulation of narcotics is regulated in Law No. 35 of 2009 concerning Narcotics. Narcotics crimes are no longer carried out individually, but involve many people who, together, even become an organized syndicate with a wide network that works neatly and very secretly both at the national and international levels.

Each of these institutions continues to make improvements in eradicating narcotics. BNN to strengthen narcotics eradication has collaborated with other government agencies such as the Police, Prosecutor's Office, Judiciary, TNI, Customs and Excise, Public Institutions, and several other agencies outlined in the form of a Memorandum of Understanding (MoU), as an example of one form of Cooperation between BNN and the TNI in the form of a Memorandum of Understanding (MoU), namely, Number: NK 29/V/2015/BNN Number: Kerma 14/V/2015 concerning TNI Assistance to BNN in the context of Prevention and Eradication of Abuse and Illicit Circulation of Narcotics and Narcotic Precursors and the Implementation of

Rehabilitation. In the Memorandum of Understanding (MoU), Drug Addicts and Narcotics Precursors contain several important points, namely:

1. Fostering and empowering the community against the abuse and circulation of narcotics and narcotic precursors
2. Dissemination of information, advocacy on the prevention of abuse and trafficking of narcotics and narcotic precursors,
3. Implementation of narcotics test or test with the consent of the parties involved,
4. Rehabilitation services with the approval of the parties involved,
5. Implementation of activities related to the eradication of narcotics abuse and circulation involving the second party at the request of the first party,
6. Assignment of personnel related to the eradication of abuse and illicit circulation of narcotics involving the second party at the request of the first party,
7. The implementation of socialization is mandatory for addicts to report during the rehabilitation process and against the abuse of narcotic precursors,
8. Exchange of data and information related to the circulation and abuse of narcotics with regard to the confidentiality and interests of the state.

Institutionally, BNN as a leading sector synergizes

with the Police coupled with several other government agencies where there is a form of cooperation that is carried out by issuing joint regulations in the context of handling narcotics addicts, namely the Joint Regulation of the Chief Justice of the Supreme Court 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 the National Police of the Republic of Indonesia and the Head of the National Narcotics Agency of the Republic of Indonesia Number: 01/PB/MA/III/2014, Number: 03 Year 2014, Number: 11 Year 2014,

Number: 03 of 2014, Number: PER-005/A/JA/03/2014, Number: 1 of 2014, Number: PERBER/01/III/2014/BNN concerning the Handling of Narcotics Addicts and Victims of Narcotics Abuse into Rehabilitation Institutions.²

Quick action is carried out by institutions bound by the joint regulations. This means that to implement the joint regulations, an implementing regulation is issued. The implication of handling narcotics addicts is the formation of the Integrated Assessment Team (TAT), which consists of a team of doctors, namely doctors and

² Hamidah, Abdurrachman. (2013). "Disparity in Judges' Decisions in Drug Cases". *Pandecta Journal* Number 7

psychologists, and a legal team consisting of elements of the National Police, BNN, Prosecutor's Office, and involves the Ministry of Law and Human Rights (BAPAS) if the suspect and/or defendant is a child.

In its implementation, the Integrated Assessment Team, especially at the National Narcotics Agency of South Sulawesi Province, carried out assessments at the request of investigators, public prosecutors, and judges. As a frontline, in terms of the implementation of assessments of narcotics addicts, investigators who arrest narcotics addicts in various rules related to the handling of narcotics addicts at the investigation level submit an application for an assessment to the integrated assessment secretariat before detention, and the results of the assessment are received by the investigator no later than six days from the time of arrest. This is in accordance with the Regulation of the Head of the National Narcotics Agency Number 11 of 2014 concerning Procedures for Handling Suspects

And/or Defendants of Narcotics Addicts and Victims of Narcotics Abuse into Rehabilitation Institutions Article 4 paragraph (6) which stipulates that:

The results of the Assessment from the Integrated Assessment Team, as referred to in paragraph (1), paragraph (2), and paragraph (3), must be concluded no later than 6 (six) days from the time they are arrested or arrested by the Investigator

However, in reality, the implementation of assessments at the BNN of South Sulawesi Province as the secretariat of the Integrated Assessment Team that has carried out an integrated assessment of narcotics addicts at the investigation or prosecution level is found to be the fact that most of the suspects who are assessed are in the custody of investigators, so it can be said that the purpose of the integrated assessment is not realized. Thus, there is a research gap for the purpose of implementing integrated assessments. Based on the description of the construction of the problem above, this study focuses on the main goal of implementing integrated assessment as a means of enforcing narcotics crimes. This research, entitled "The Effectiveness of the Implementation of Integrated Assessments for Narcotics Addicts with Prisoner Status as a Basis for Rehabilitation," is very important to carry out.

RESULTS AND DISCUSSION

B. Restorative Justice-Based Narcotics Abuse Case Settlement at the Tangerang District Attorney's Office

The settlement of narcotics abuse cases based on *restorative justice* is a form of criminal law reform that emphasizes recovery rather than retribution. In the context of handling narcotics cases in Indonesia, this

approach is in line with the spirit of decriminalization of users or abusers who are basically victims of substance dependence. Normatively, the basis for the implementation of *restorative justice* by the prosecutor's office can be found in the Attorney General's Regulation Number 15 of 2020, which gives the prosecutor the authority to stop the prosecution by considering justice for the perpetrator, the victim, and the community. In addition, this policy is also correlated with Law Number 35 of 2009 concerning Narcotics, which opens a rehabilitation space for narcotics abusers as a form of health protection.

Meanwhile, the prosecutor's office, which is also one of the sub-systems of criminal justice in Indonesia, has a fairly central and crucial role.¹²⁵ This is because the prosecutor's office has functions related to judicial power in the field of prosecution, and other powers in accordance with Article 1 Number 1 of Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia.

Specifically in tackling problems related to narcotics crimes through the concept of restorative justice, the Prosecutor's Office of the Republic of Indonesia has enacted Guideline Number 18 of 2021 which consists of 9 (nine) chapters, with the scope of

including pre-prosecution, prosecution, supervision, training, and financing for the settlement of cases of narcotics abuse through rehabilitation with a restorative justice approach as the implementation of the principle of dominus litis Prosecutor. When this Guideline came into effect, namely on November 1, 2021, the suspect who is suspected of violating Article 127 paragraph (1) of the Narcotics Law, whose case has not been transferred to the Court, the handling of the case is carried out based on Guideline Number 18 of 2021.

Restorative justice is a criminal philosophy that requires a comprehensive recovery of the adverse impacts experienced by the perpetrators, victims, and community. The restorative justice approach is also felt to be appropriate to be applied in drug abuse cases because it is in line with one of the goals of punishment that has been formulated in the National Criminal Code Draft, which aims to resolve conflicts caused by criminal acts, restore balance, and bring a sense of peace in society.

Currently, within the scope of law enforcement agencies, many internal regulations have been issued that regulate restorative justice. Especially in handling the crime of narcotics abuse, the National Police of the Republic of Indonesia issues Restorative Justice, which can be applied if it meets the requirements, namely when it is caught by Police investigators and/or BNN investigators, and evidence of 1 (one) day of use is found,

and also has assessment results from the Integrated Assessment Team on each transfer of case files.

Restorative justice itself is a popular alternative in various parts of the world for the handling and prevention of a crime by providing a comprehensive and effective solution. Not only that, but it is also seen as a solution to cover up the weaknesses and dissatisfaction with the retributive approach.

The development of criminal law politics in Indonesia, the existence of prosecutors and prosecutors plays a central role in handling cases of narcotics abuse crimes, and also all forms of criminal acts. The principle of *dominus litis* owned by the Prosecutor is a principle that applies universally and is contained in Article 11 of the Guidelines on the Role of Prosecutors, which states that Prosecutors shall perform an active role in criminal proceedings. The role of the prosecutor is a consequence as the owner of the case who has an obligation/burden to prove his allegations. In addition, the political direction of criminal law or criminal law policy in Indonesia confronts the Prosecutor with contemporary issues such as overcrowding in Correctional Institutions for which he is responsible.

The obstacle in the implementation of restorative justice by the Prosecutor's Office of the Republic of Indonesia, especially by the Public Prosecutor, is that in the current narcotics abuse case, restorative justice has been carried out by the Investigator of the National

Police of the Republic of Indonesia, who handles the case. This refers to Police Regulation No. 8 of 2021 concerning the Handling of Crimes Based on Restorative Justice. The rules for the implementation of restorative justice in the Police Regulation, as mentioned in Article 9 paragraph (1), regulate special conditions, namely:

- 1) Special Requirements for Handling Criminal Acts based on Restorative Justice for Drug Crimes, including:
 - a. Drug addicts and victims of drug abuse who apply for rehabilitation;
 - b. At the time of hand-holding:
 1. evidence of narcotics used for 1 (one) day with the classification of narcotics and psychotropics in accordance with the provisions of the law;
 2. No evidence of drug crimes was found, but the urine test results showed positive for drugs.
 - c. not involved in drug criminal networks, dealers, and/or distributors;
 - d. An assessment has been carried out by an integrated assessment team; and the perpetrator is willing to cooperate with Police investigators to conduct further investigations.

The strengthening of the role and institution of the Prosecutor's Office as the controller of criminal cases has

also been seen in the Draft Criminal Code that is being designed to be ratified. This is so that the role of the Prosecutor's Office in particular and the criminal justice system in Indonesia in general, can follow developments in the international world. According to him, this is in accordance with the spirit of modernization of the Criminal Code and the Criminal Code in Indonesia, where the Prosecutor's Office, as the holder of the principle of *dominus litis*, plays a central role in every criminal case.

This restorative justice is a form of functionalizing the principle of *dominus litis* owned by the prosecutor's office.¹²⁹ Although in the past, if we look at the old prosecutor's regulation, namely Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, it will not be found either explicitly or implicitly related to the legal basis of the application of restorative justice. As a result of the lack of such a basis, the prosecutor's office considers that the old prosecutor's law is not strong enough to provide a basis related to the application of restorative justice.

The purpose of the establishment of Guideline Number 18 of 2021, as mentioned in the Purpose and Objectives section of the Guideline, states that this Guideline is intended as a reference for the public prosecutor in resolving cases of narcotics abuse through rehabilitation with a restorative justice approach, as the implementation of the principle of *dominus litis* of the

Prosecutor.

Meanwhile, the purpose of the establishment of the guidelines is stated that this guideline is aimed at optimizing the completion of the handling of criminal cases of narcotics abuse through rehabilitation with a restorative justice approach, as the implementation of the principle of dominus litis of the Prosecutor. The principle of Dominus Litis owned by the Prosecutor's Office of the Republic of Indonesia has positioned the Public Prosecutor as the controller of the case. Whether or not the prosecution in a criminal case is based on the results of the investigation of the Investigator is the absolute authority of the Public Prosecutor. Where the Public Prosecutor can stop the prosecution on the grounds that the evidence is insufficient, the event is not a criminal act, and the case is closed for the sake of the law. That the principle of dominus litis plays a central role in the professional and proportionate Public Prosecutor as the controller of the case process. With the principle of deponering, it can also be proven that the authority of the Public Prosecutor is indeed based on dominus litis. The principle of deponering stipulates³ that the Public Prosecutor has the authority to set aside cases in the public interest, which is mentioned in the provisions of Article 35 paragraph (1) letter c of Law Number 11 of

³ Article 54 of Law No. 35 of 2009 concerning Narcotics, Statute Book of 2009 No. 143 41 Article 1 No. 16 of Law No. 35 of 2009 concerning Narcotics, Statute Book of 2009 No. 143

2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office, which authorizes the Attorney General to set aside cases in the public interest. Then, in the explanation of the Article, it is stated that:

What is meant by "public interest" is the interests of the nation and state and/or the interests of the wider community. The Attorney General takes into account the advice and opinions of the state power bodies that have a connection to the matter."

Then the scope of the guidelines includes pre-prosecution, prosecution, supervision, training, and financing for the settlement of criminal cases of narcotics abuse through rehabilitation with a restorative justice approach as the implementation of the principle of dominus litis of the Prosecutor. Then, in Chapter II, about

The general explanation of the Guidelines, as stated in numbers 1 and 2 that the Public Prosecutor completes the handling of cases of narcotics abuse through rehabilitation with a restorative justice approach in order to implement the principle of dominus litis of the Prosecutor as the controller of the case. The implementation of the case control function, as referred to above, is carried out within the scope of the duties and authority of the Prosecutor to build an integrated criminal justice system from the investigation stage to the implementation of court decisions that have permanent

legal force to uphold the law, justice, and truth, including conducting pre-prosecution and carrying out horizontal supervision through pretrial institutions.

The background of the establishment of the aquo guidelines is, first, to overcome the issue of overcrowding because this issue has become a serious concern of the community and the government, as outlined in the National Medium-Term Development Plan for 2020-2024 in the context of improving the criminal law system through a restorative justice approach. And second, the need for strategic criminal policies, especially in handling cases of narcotics abuse, one of which is through the reorientation of law enforcement policies in the implementation of Law Number 35 of 2009 concerning Narcotics. Therefore, in order to implement the National Medium-Term Development Plan for 2020-2024 and the reorientation of law enforcement policies in implementing the Narcotics Law, it is necessary to establish the Guidelines.

Then in Chapter III it is explained about the Pre-Prosecution stage where in number 1 it is stated that, in studying and researching the results of the investigation from the investigator, the Public Prosecutor ensures the completeness of the formal and the material completeness.

Then number 2 states that the researcher of formal completeness and material completeness as referred to in

number 1 is carried out especially related to:

- a) evidence of drug abuse;
- b) the qualifications of the suspect;
- c) Qualifications Stuttgart Criminal and Compatibility with Article suspected;
- d) elements of the offense (mens rea) in the suspect;
- e) examination of suspects; and
- f) recommendations for integrated assessment results.

In number 3, it is explained that in the case based on the research of the case file, the Public Prosecutor is of the opinion that the suspect can be qualified as an abuser, then the suspect must be suspected of violating Article 127 paragraph

(1) Narcotics Law. Then number 4 explains that in order to prove the suspect's guilt, especially his involvement in the illicit narcotics trafficking network, the Public Prosecutor gives instructions to investigators to:

- a. check whether the suspect is the last user (end user); and
- b. Checking the suspect's profile is associated with financial transactions and the suspect's way of life (Know Your Suspect).

In number 5, it is stated that in the event that narcotics evidence is found that does not exceed the

amount of use of 1 (one) day, the Public Prosecutor instructs the investigator so that a forensic laboratory examination must be carried out on the suspect to determine the qualifications of the suspect. Furthermore, at the prosecution stage, in the general part letter A it is explained that after the Public Prosecutor receives or re-accepts the complete investigation results from the Investigator and accepts the handover of responsibility for the suspect and evidence (stage 2),

The Public Prosecutor immediately determines whether the case file meets the requirements to be transferred to the court based on the principle of *dominus litis*.

Then in letter B, it is stated that the types and requirements for rehabilitation through legal processes consist of: a. Medical rehabilitation; and b. Social rehabilitation. In number 2, it is explained that for suspects who are suspected of violating Article 127 paragraph (1) of the Narcotics Law, rehabilitation can be carried out through legal processes as referred to in number 1. Number 3 states that those who are suspected of violating Article 127 paragraph (1) of the Narcotics Law as referred to in number 2, are qualified as abusers consisting of:

- a. Narcotics abusers (vide Article 1, number 15 of the Narcotics Law);
- b. Victims of abuse , Narcotics (Blank)

Explanation Article 54 Narcotics Law); or

- c. Narcotics Addicts (vide Article 1 number 13 of the Narcotics Law).
- d. In number 4, it is explained that the requirements for rehabilitation through legal proceedings for abusers, as referred to in number 3, are:
- e. Based on the results of the forensic laboratory examination, the suspect tested positive for using narcotics;
- f. Based on the results of the investigation using the know your suspect method, the suspect was not involved in the illicit narcotics trafficking network and was an end user;
- g. The suspect is arrested or arrested without narcotics evidence or with narcotics evidence that does not exceed the amount of use of 1 (one) day;
- h. Based on the results of the integrated assessment, the suspect was qualified as a narcotics addict, a victim of narcotics abuse, or a narcotics abuser;
- i. The suspect has never undergone rehabilitation or has undergone rehabilitation no more than twice, which is supported by a certificate issued by an official or authorized institution; and
- j. There is a guarantee letter for the suspect to undergo rehabilitation through legal proceedings from his family or guardian

Then the number 5 explains that the requirements

as referred to in the number e are excluded for victims of narcotics abuse and narcotics addicts. Still in chapter 4 regarding the prosecution, in chapter 4 letter D it is explained in number 1 that the Head of the District Attorney's Office or the Head of the District Attorney's Branch as the Public Prosecutor issues a determination of rehabilitation through a legal process based on a memorandum of opinion and attachments as referred to in letter c number

3. Then, in number 2 it is stated that the Head of the District Attorney's Office or the Head of the District Attorney's Branch issues a determination of rehabilitation through legal proceedings within a maximum of 3 (three) days from receiving the memorandum of opinion and attachment as referred to in number 1.

In number 3, it is explained that in the event that the application for rehabilitation through legal proceedings is exposed to the leadership, the Head of the District Attorney's Office or the Head of the District Attorney's Branch issues a determination of rehabilitation through legal proceedings within a maximum of 14 (fourteen) days from receiving the memorandum of opinion and attachment as referred to in number 1. Furthermore, in number 4, it is explained that the determination of rehabilitation through the legal process, as referred to in number 1, contains:

- a. Designate suspects to undergo rehabilitation

- through legal processes;
- b. Determining the place and duration of rehabilitation through legal proceedings;
 - c. Determining the status of evidence, including narcotics evidence that is set aside in part for the purpose of prosecution and examination at court hearings, remains under the responsibility of the Public Prosecutor until the completion of the implementation of rehabilitation through legal proceedings; and
 - d. Order the release of the suspect, if detention.

In number 5, it is explained that the determination of the place and duration of rehabilitation through the legal process as referred to in number 1 is submitted to the suspect or family or Legal Advisor, State Prison Officials, Investigators and Judges. Number 6 explains that the determination of rehabilitation through the legal process as referred to in number 1 is submitted to the suspect or family or Legal Advisor, State Prison Officials, Investigators and Judges. In number 7, it is formulated that the determination of rehabilitation through legal proceedings as referred to in number 1 is recorded in the Register of Prosecution Stage Cases. In part E in chapter 4 of the aquo Guidelines, which regulates the implementation of rehabilitation through the legal process, in number 1 it is stated that the implementation

of Rehabilitation through the following legal processes:

- a. Medical rehabilitation is carried out at local rehabilitation institutions and/or health services; and
- b. Social rehabilitation is carried out at social rehabilitation centers organized by the Ministry of Social Affairs, Social Service, or the community.

Then number 2 explains that in⁴ the event that the determination of rehabilitation through a legal process does not include the duration of rehabilitation, the duration of rehabilitation implementation is determined by the rehabilitation institution. Number 3 says that the implementation of rehabilitation through the legal process as referred to in number 1 is outlined in the minutes of the implementation of rehabilitation. Next on the number 4 It was explained that the supervision of the implementation of rehabilitation through the legal process was carried out by the Public Prosecutor by way of the suspect making a mandatory report, the time and manner of which was determined by the Public Prosecutor and supported by a rehabilitation certificate from the rehabilitation institution.

⁴ Tatas Nur Arifin, Implementation of Narcotics Addict Rehabilitation in the Narcotics Law as a Non-Penal Effort of the National Narcotics Agency, Journal of Brawijaya University, Faculty of Law, p. 15 44 Eriyantouw Wahid, 2009, Restorative Justice and Conventional Justice in Criminal Law, Trisakti University, Jakarta, p. 1.

In number 5 it is explained that in the event that the suspect does not undergo rehabilitation through legal proceedings without a valid reason or undergoes rehabilitation through legal proceedings but is not in accordance with the placement, the Public Prosecutor gives a written warning to the suspect. Furthermore, in the provision of number 6, it is stated that in the event that the suspect does not heed the warning as referred to in number 5, the Public Prosecutor will prosecute and may make forced efforts against the suspect. In number 7, it is stipulated that in the event that the suspect has completed rehabilitation through the legal process, the suspect reports it to the public prosecutor.

In number 8, it is stated that the Public Prosecutor did not prosecute the suspect who had completed rehabilitation through the legal process as referred to in number 7. In number 9, it is stated that the Public Prosecutor forwards the report as referred to in number 7 in stages to the Head of the District Attorney's Office or the Head of the District Attorney's Branch as the Public Prosecutor issues a determination as intended in number 9, which contains:

- a. Determining that the suspect is not prosecuted; and
- b. Determining the status of evidence for evidence as referred to in letter D number 4 letter c is completed in accordance with the provisions of laws and regulations.

In number 11, it is stated that in the event of a recurrence of the crime of narcotics abuse, rehabilitation through legal proceedings that the suspect has undergone is counted as having undergone rehabilitation as referred to in letter B number 4 letter e. In chapter 5, it is regulated regarding supervision. In this chapter, the provisions in number 1 are regulated, namely that the implementation of this Guideline is carried out functional supervision and inherent supervision. Then in number 2 it is stated that violations of the implementation of this Guideline are subject to sanctions in accordance with the provisions of laws and regulations. In addition, in the next chapters, especially in chapter 6, it is regulated about training to optimize the aquo Guidelines, by organizing technical guidance and training education. Then in chapter 7, it is regulated regarding the financing of the implementation of the Guidelines.

In chapter 8, which regulates the transitional provisions, where it is stipulated that at the time this guideline comes into effect, suspects who are suspected of violating Article 127 paragraph (1) of the Narcotics Law whose case has not been transferred to the Court, the handling of the case is carried out based on this Guideline. Referring to the Institute for Criminal Justice Reform (ICJR), the presence of the Indonesian Prosecutor's Office Guidelines Number 18 of 2021 needs to be appreciated as a form of effort from the

Prosecutor's Office to reorient narcotics policy that should not impose imprisonment on narcotics users. The guidelines encourage the optimization of the use of rehabilitation compared to the imposition of prison sentences. However, according to them, there are a number of notes in this Prosecutor's Guidelines that need to be considered to ensure that efforts to provide imprisonment avoidance for narcotics users can run optimally, fairly and with minimal abuse.

The ICJR stated that first, not only rehabilitation can be a means of avoiding imprisonment for narcotics users. But it can also be rehabilitation was carried out at the prosecution stage in accordance with the Guidelines of the Prosecutor's Office of the Republic of Indonesia number 18 of 2021. Rehabilitation in the Narcotics Law of 2009 is defined as a series of treatment and recovery activities from the effects of narcotics dependence, but not all narcotics users are addicts or experience dependence.

C. Obstacles and Solutions for Restorative Justice-Based Narcotics Abuse Case Resolution at the South Tangerang City Prosecutor's Office

The application of *the restorative justice* approach in resolving narcotics abuse cases at the South Tangerang City Prosecutor's Office faces various obstacles, both normatively, structurally, and culturally. First, **normative**

constraints (legal regulations). Although there is a legal basis such as the Prosecutor's Regulation of the Republic of Indonesia Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice, as well as provisions in Law Number 35 of 2009 concerning Narcotics, there has not been optimal harmonization. In practice, there is ambiguity between the approach to punishment and rehabilitation, particularly in determining whether an abuser is really an abuser or is also involved in the illicit circulation of narcotics. Second, **structural (institutional) constraints.** Law enforcement officials, including prosecutors, often face limited resources, both in terms of the number of personnel and the capacity to understand the concept of *restorative justice*. In addition, coordination between law enforcement officials (police, prosecutor's office, and rehabilitation institutions) has not been fully integrated effectively. Third, **technical and administrative obstacles.** The integrated assessment process to determine the feasibility of rehabilitation requires time, experts, and procedures that are not simple. This often slows down the process of resolving cases and becomes an obstacle to the implementation of *restorative justice* quickly and efficiently. Fourth, **cultural constraints (community legal culture).** There is still a paradigm of society that tends to prioritize a repressive approach and

punish narcotics offenders, without distinguishing between users and dealers. This has implications for the lack of support for rehabilitation policies as an alternative to punishment. Fifth, **obstacles in supervising the implementation of rehabilitation.** After the implementation of *restorative justice*, supervision of the implementation of rehabilitation often does not run optimally, so it has the potential to cause recidivism.

For the resolution of narcotics abuse cases based on restorative justice in the Prosecutor's Office in general, it faces a number of quite complex obstacles, both from normative, institutional, and social legal aspects. The first obstacle that is quite basic is the limited understanding of law enforcement officials regarding the concept and implementation of restorative justice itself. Although the Prosecutor's Office has issued various technical guidelines, not all prosecutors have the same level of understanding of the application of restorative justice,¹³⁴ especially in cases of narcotics abusers that have health and social dimensions.

The next obstacle is the lack of optimal synergy between law enforcement agencies and other related institutions. In the implementation of restorative justice, close cooperation is needed between the Prosecutor's Office, the Police, BNN, rehabilitation hospitals, and the perpetrator's family. However, in the field, the coordination is still running sectorally and has not been

thoroughly integrated, causing confusion in the implementation of assessment procedures, rehabilitation supervision, and post-rehabilitation follow-up.

In addition, limited rehabilitation facilities are the main obstacle to the implementation of restorative justice. In the Semarang area, the number of available medical and social rehabilitation institutions has not been able to accommodate all recommended narcotics abusers for rehabilitation. As a result, many abusers are still directed to criminal proceedings due to limited space in rehabilitation institutions.

Funding issues are also a serious obstacle. The rehabilitation process, integrated assessment, and post-rehabilitation recovery require a large budget. Although the state provides a budget, its availability is often insufficient or distributed late, making it difficult for the Prosecutor's Office to realize optimal restorative settlement of cases.

The next factor is pressure from the public who still consider narcotics abusers as criminals who must be punished severely. This negative stigma causes objections from the community if the perpetrator is only rehabilitated without being imprisoned. This is a dilemma for prosecutors in taking a policy of stopping prosecutions based on restorative justice. In practice, prosecutors often have difficulty determining whether a narcotics abuser is an addict, a victim of abuse, or a

covert dealer. Errors in this classification can lead to abuse of restorative justice policies by perpetrators who are not actually victims. The low participation of the community and victims in the restorative justice process is also an obstacle. In many cases, the victim or the victim's family is not actively involved in the mediation or recovery process, even though the principle of restorative justice emphasizes the participation of all parties involved.

Regarding legal instruments, there are no mandatory or mandatory rules on the application of restorative justice to narcotics abusers as well hinder its implementation. The existing regulations are still guidelines and open up a wide space for interpretation, causing differences in treatment between prosecutors in various regions. The rejection of the abuser or his family to the rehabilitation program is also an obstacle. There are cases where the perpetrator or his or her family is unwilling to participate in a rehabilitation program due to cost, distance, or distrust of the effectiveness of the rehabilitation institution. In addition, the integrated assessment carried out by BNN has not been fully a reference for prosecutors in making decisions. Sometimes the results of the assessment are contradicted by the facts in the case file obtained by the investigator, thus causing inconsistencies in the follow-up of case handling.

Technical administrative problems also often arise

in the restorative justice process. The completeness of files, letters of recommendation, and reports from relevant agencies are often out of sync with each other, slowing down the process of terminating prosecutions.

The lack of a strong monitoring and evaluation system for the implementation of rehabilitation is also a serious obstacle. Without systematic evaluation, the effectiveness of the rehabilitation program that the perpetrator has undergone cannot be measured clearly, so it is feared that the perpetrator may repeat his actions. The perception among prosecutors that the restorative justice approach will weaken the deterrent effect and legitimacy of the law is also a psychological obstacle in itself. Fear of the emergence of an image that the Prosecutor's Office is soft on narcotics abusers makes some prosecutors reluctant to implement a mechanism to stop prosecutions.

The process of socialization to the public regarding restorative justice has also not been maximized. There are still many people who do not understand that restorative justice does not mean that perpetrators are released, but rather directed to a more constructive recovery process and prevent repeat crimes.

The limited data and information regarding the history of the perpetrator also hinders the Prosecutor's Office in determining whether the perpetrator is included in the category that deserves restorative justice.

It is not uncommon for perpetrators to be recidivists who disguise their identity as new users. Supervision of the implementation of rehabilitation is also still weak. Not all rehabilitation institutions have a transparent and accountable reporting system to the Prosecutor's Office, so there is no certainty whether the perpetrator is really undergoing effective recovery.

In addition, not all law enforcement officials understand the urgency of separating narcotics users and dealers in investigative practices. Mistakes in this early stage have an impact on the stage of prosecution and imposition of improper sanctions. The lack of political and policy support from local governments is also a challenge. Some regions do not have a real commitment to support rehabilitation, both in terms of budget and facilities and infrastructure. Finally, the lack of a research-based approach and empirical data in evaluating the implementation of restorative justice has led to this policy still being experimental and has not measured its long-term effectiveness. Without the support of scientific studies, restorative justice is still considered an alternative, not the main approach.

To overcome the lack of understanding of law enforcement officials about the concept and technicalities of restorative justice, it is necessary to conduct intensive and continuous training and debriefing for prosecutors. This activity can be carried out periodically through

cooperation between the Attorney General's Office, BNN, and academic institutions to ensure a complete understanding of the principles of restorative justice. In order to strengthen synergy between institutions, it is necessary to form an integrated task force that specifically handles narcotics abusers with a restorative approach. This task force must involve the Prosecutor's Office, the Police, BNN, rehabilitation institutions, and local governments so that there is no overlap in authority and to facilitate coordination. The solution to the limitations of rehabilitation institutions is to encourage government cooperation with the private sector and civil society organizations. Local governments can also be involved in building or supporting the operations of rehabilitation institutions, including providing regional hospitals as temporary rehabilitation sites.

To overcome budget problems, the central and regional governments must allocate special budgets for the implementation of restorative justice, including the cost of integrated assessments, rehabilitation, and social assistance. Village funds and CSR from companies in the relevant areas can also be allocated to support this program.

In reducing public resistance to restorative approaches, the Prosecutor's Office can conduct a massive public campaign on the importance of rehabilitation for narcotics abusers. This campaign can be carried out through social media, seminars, and

collaboration with community leaders or religious leaders. In order to make the process of classification perpetrators more accurate, an integrated data verification system is needed between investigators, BNN, and prosecutors. The use of information technology that supports profiling perpetrators can help prosecutors assess whether the perpetrator is an addict or a trafficker.

To encourage community and victim participation, the Prosecutor's Office needs to involve mediation facilitators who are trained in restorative approaches. The involvement of NGOs and community leaders can strengthen community involvement in the social and moral recovery process of perpetrators. The government needs to revise or issue a new binding regulation (imperative) regarding the obligation of prosecutors to consider restorative justice in cases of narcotics abuse, especially for the first perpetrator and not related to the illicit trafficking network. So that the perpetrator or his family is willing Undergoing rehabilitation, the government must ensure that rehabilitation programs are free, transparent, and carried out in affordable locations. A persuasive and educational approach to the perpetrator's family is also important to build trust.

To strengthen the position of the integrated assessment, the results of the assessment from BNN should have binding legal force and be the main

reference for prosecutors in decision-making. If necessary, the results of the assessment can be monitored by an independent audit to be more objective. Administrative completeness can be improved by digitizing the restorative justice process. An integrated case-handling information system-based application can be used to store and process all the necessary documents simultaneously and in real-time. STEM monitoring and evaluation also need to be built to supervise the rehabilitation process. The Prosecutor's Office may work with academics or independent institutions to compile success indicators and periodic reports on the progress of rehabilitation participants.

In changing the paradigm of assessing prosecutors' performance, the Attorney General's Office can compile performance indicators based on the quality of case handling, not quantity. Solving cases with a restorative justice approach must be a plus in the prosecutor's performance assessment system. To address internal doubts about the effectiveness of restorative justice, the Prosecutor's Office needs to disseminate empirical data and evaluation results that show the success of this approach in reducing recidivism and accelerating the social recovery of perpetrators. Public socialization must continue to be carried out so that the public understands that restorative justice is a form of restoration, not legal neglect. Mass media, schools, and religious institutions can be partners in spreading this

understanding to a wider range of society. To overcome the problem of verifying the identity of perpetrators, law enforcement officials can collaborate with the Directorate General of Dukcapil to verify population data and criminal history nationally. A digital system will be of great help in this validation process.

In strengthening supervision of rehabilitation institutions, it is necessary to establish an audit system based on service indicators and outcomes. Each rehabilitation institution must report its activities and recovery results regularly to the Prosecutor's Office and BNN to ensure transparency. Investigations into abusers should be strengthened with an interdisciplinary approach, including involving psychologists, psychiatrists, and addiction experts from the outset. With this approach, the classification of perpetrators will be more precise and in accordance with the actual conditions. Policy support from local governments can be strengthened through Regional Regulations or Regional Head Decrees that support restorative justice, especially in the establishment of community-based rehabilitation centers and regional budget allocation. One example of the application of Restorative Justice (RJ) in Thailand has experienced Development significantly, especially in Handling cases of narcotics abuse. This approach aims to shift the focus from punitive punishment to rehabilitation and social reintegration, in line with reform

laws and policies. One of the important milestones in the implementation of the RJ was the Narcotics Rehabilitation Law of 2002, which introduced a mandatory rehabilitation program for narcotics users. Through this program, individuals arrested for drug use can undergo rehabilitation instead of facing legal proceedings, provided they are willing to participate in a program set by a rehabilitation committee made up of prosecutors, doctors, psychologists, social workers, and community representatives.

Further reforms occurred with the passage of a new Narcotics Code in 2021, which emphasized a health-based approach to handling narcotics abuse cases. The code introduces alternative penalties for misdemeanors, such as community-based rehabilitation and sentence reduction, as well as imposes limits on the quantity of possession for personal use.

Restorative justice (RJ) in Australia has evolved as an alternative approach to dealing with narcotics abuse cases, focusing on rehabilitation and social reintegration rather than punitive punishment. This approach aims to address the root causes of criminal behavior, such as drug dependence, trauma, and social marginalization. One significant implementation of RJ was through the Drug Court in New South Wales, which was established in 1999. The court treats offenders who experience narcotics dependence by offering a closely supervised

rehabilitation program, including regular testing, counseling, and social support. The goal is to reduce narcotics dependence and prevent reoffending by providing alternatives to prison sentences.

In addition, the RJ approach is also applied in the community through programs such as those run by the Ted Noffs Foundation. The organization provides rehabilitation services for adolescents experiencing substance dependency issues, with an approach focused on individual recovery and empowerment. These programs emphasize the importance of community support and active involvement in⁵ the recovery process. Indonesia can adopt a health-based approach and mandatory rehabilitation as implemented in Thailand and Australia. In Thailand, drug abusers are transferred from the criminal justice process into rehabilitation programs supervised by a joint team (prosecutors, doctors, psychologists, and social workers). Meanwhile, in Australia, special narcotics courts (Drug Courts) provide offenders with the opportunity to undergo intensive rehabilitation programs rather than prison sentences. This system is in line with Article 54 of Law No. 35 of 2009 concerning Narcotics, but its implementation in Indonesia has not yet been implemented maximum because of the lack of integration between institutions and the still dominant

⁵ Eva Achjani Zulfa, 2009, *Restorative Justice*, Publishing Board, Faculty of Law, University of Indonesia, Jakarta, p. 65. 46 Johnstone and Van Ness, 2005, *The Meaning of Restorative Justice*, journal for the 11th UN Fifth Annual Conference, Workshop 2, Bangkok-Thailand, p. 2-3.

repressive approach. In addition, Indonesia can also develop a community-based restorative justice approach like in Australia, which involves community rehabilitation institutions and social organizations in the recovery process. This creates a more humane and effective participatory space in addressing narcotics abuse, especially for novice users or those who are not involved in the trafficking network. This adoption not only eases the burden on correctional institutions, but also strengthens the values of social justice, family, and mutual cooperation that are characteristic of Indonesia's legal culture.

As for the obstacles against Implementation Rehabilitation Medical and Law Enforcement Law enforcement related to the rehabilitation of narcotics addicts in the East Belitung Police area faces various obstacles that come from the normative, structural, and cultural realms. Article 54 of Law Number 35 of 2009 concerning Narcotics emphasizes that addicts are obliged to undergo medical and social rehabilitation, but this provision still causes differences in interpretation at the level of law enforcement officials. Some officials still prioritize the retributive penal approach, so the assessment process and submission of rehabilitation to the court are not always carried out consistently. This inconsistency of interpretation weakens the legal position of addicts who should be treated as victims of narcotics abuse.

The Joint Regulation of 7 Institutions of 2014 which is a technical guideline for handling narcotics addicts also leaves a gray area. The integrated assessment procedures set out in it are often not carried out comprehensively due to limited resources in the regions. The provisions governing the role of the Regency National Narcotics Agency (BNNK) and the police are not always followed by detailed operational guidelines, so the apparatus in the field often relies on their own policies. This kind of legal loophole causes the rehabilitation process to not run effectively and reduces public trust in legal justice.

The limitations of technical guidelines for the district level Police further increase the uncertainty of the implementation of rehabilitation. The Narcotics Law, which gives judges the authority to decide on rehabilitation for addicts, is not followed by detailed technical instructions on the mechanism for submission and implementation at the investigation level. When there is no clarity in procedures, the authorities often choose the prison sentence path that is considered simpler than submitting a rehabilitation application. This has the potential to shift the main purpose of laws that emphasize addiction recovery.

Structural obstacles are a serious challenge because the capacity of rehabilitation institutions in East Belitung is still very limited. Data from the local Health Office shows that the number of medical rehabilitation

facilities is not proportional to the number of cases of narcotics abuse that continues to increase every year. Article 59 of the Narcotics Law does regulate the responsibility of local governments in the provision of rehabilitation facilities, but its implementation is constrained by budget limitations. As a result, the rehabilitation process is often hampered or even delayed.

There are also few medical personnel certified in addiction, causing the medical rehabilitation process to be not optimal. Competency standards regulated through the Regulation of the Minister of Health Number 50 of 2015 concerning Guidelines for the Implementation of Medical Rehabilitation for Narcotics Addicts are difficult to meet in the regions. The lack of doctors and addiction counselors reduces the quality of services, so that the goals of the physical and psychological recovery of addicts are not fully achieved. This inequality of human resources further emphasizes the existence of structural obstacles in the implementation of rehabilitation policies.

Budget constraints add to the complexity of structural problems. Local governments have an obligation to fund rehabilitation programs in accordance with Article 60 of the Narcotics Law, but the realization of the budget is often insufficient for needs. The limited allocation of funds makes the Police and BNNK have to select cases that can be submitted for medical rehabilitation, so that many addicts end up not getting

the services that should be their right. This inequality has direct implications for the success rate of rehabilitation.

The stigma of society towards narcotics addicts creates significant cultural barriers. Although the law places addicts as victims who must be rehabilitated, the social view that sees them as criminals is still strong. This social pressure often discourages families from reporting members who are addicted to narcotics, although Article 55 of the Narcotics Act encourages parents or guardians to report for addicts to get rehabilitation. Fear of social sanctions hinders early detection and handling of cases. The lack of family support also reduces the effectiveness of medical rehabilitation. The recovery process of addicts urgently needs moral and emotional support from the immediate environment. When families choose to stay away or refuse involvement, addicts are prone to relapse. This situation is contrary to the spirit of the Joint Regulation of 7 Institutions of 2014 which emphasizes the importance of the role of the family and the community in the success of rehabilitation. Analysis with legal effectiveness theory shows that normative, structural, and cultural barriers reflect an imbalance between the substance, structure, and culture of the law. According to Lawrence M. Friedman, the effectiveness of the law is influenced by these three elements. This imbalance can be seen from the substance of the law that has not been supported by detailed guidelines, a structure that lacks medical facilities and personnel, and

a community legal culture that is still full of stigma. These three factors together reduce the usefulness of medical rehabilitation policies.

Criminal theory underscores the importance of rehabilitative rather than punitive punishment. These obstacles hinder the implementation of penalties that emphasize the recovery and improvement of perpetrators, as mandated by Article 103 of the Narcotics Law. When the authorities and society are still trapped in the retributive paradigm, a more humane goal of punishment is not achieved. This paradigm reduces the addict's chances of getting a decent recovery.

The restorative justice approach emphasizes the restoration of relationships between perpetrators, victims, and society. Cultural barriers such as social stigma directly hinder the process of reconciliation and recovery that is at the heart of this approach. The absence of support from the environment makes the rehabilitation process unable to restore addicts to a healthy social life. The application of the principle of restorative justice becomes difficult when society refuses to provide space for addicts to reintegrate.

The tension between the retributive paradigm of law enforcement officials and rehabilitative goals becomes clearer when looking at the low number of cases submitted for medical rehabilitation. BNN data shows many cases where addicts are actually sentenced to prison, even though the conditions for rehabilitation are

met. This situation shows a clash between remedial policies and legal practices that still emphasize corporal punishment. Normative and cultural barriers also create legal uncertainty for addicts. When the authorities have different interpretations of Articles 54 and 103, the public becomes hesitant to report or cooperate in the rehabilitation process. This uncertainty undermines the purpose of the Narcotics Law which aims to provide protection for addicts as victims.

The inconsistency between written norms and law enforcement practices poses serious problems for the protection of the rights of narcotics addicts. Article 127 of the Narcotics Law actually opens up space for addicts to get rehabilitation as a special form of punishment. However, law enforcement officials often place more emphasis on the criminal aspects of prison on the grounds of deterrence, even though research shows that prison sentences actually worsen the condition of addicts. The inconsistency in the implementation of this norm shows a weak commitment to make rehabilitation the main policy, even though the regulations have clearly regulated it. This situation not only harms addicts, but also reduces the effectiveness of state efforts in suppressing narcotics abuse in a sustainable manner.

Structural barriers are increasingly visible when the capacity of rehabilitation institutions is not only limited in quantity, but also unevenly distributed. Remote areas such as East Belitung often do not have

adequate rehabilitation facilities, so addicts must be referred outside the area. This condition poses additional obstacles in the form of transportation costs, logistical limitations, and burdens for addicts' families who have to accompany them during the rehabilitation process. Article 59 paragraph (2) of the Narcotics Law requires the central and regional governments to provide rehabilitation facilities equally, but in reality the implementation of this provision is still

far from expectations. As a result, the gap in access to rehabilitation between urban areas and peripheral areas is widening, so that the legal goals are not fully achieved. Dimensions Culture which is in the form of Social stigma also worsening the position of narcotics addicts. The harsh public perception of addicts causes the rehabilitation process to often be seen as a form of leniency that is not appropriate. This kind of assumption is contrary to the spirit of legal protection as stipulated in Article 4 letter d of the Narcotics Law which affirms the purpose of the law to ensure the regulation of rehabilitation efforts. When society refuses to recognize addicts as victims who deserve rehabilitation, social reintegration after rehabilitation becomes very difficult. These cultural barriers show that a change in the legal paradigm will not be effective without the Transforming the way people see things. The overall obstacles show that the effectiveness of the law is not only determined

by the existence of written rules, but also the extent to which the rules are supported by facilities, human resources, and conducive community culture. Efforts to overcome normative, structural, and cultural obstacles are prerequisites so that the rehabilitation provisions in Law Number 35 of 2009 and Joint Regulation of 7 Institutions of 2014 can be implemented in their entirety. Without improvements in these three aspects, law enforcement oriented towards the recovery of addicts will be difficult to achieve.

As for Efforts to Overcome Obstacles to the Implementation of Medical Rehabilitation and Law Enforcement, cross-sector synergy is a fundamental step to ensure that medical rehabilitation for narcotics addicts can run in accordance with the provisions of the law. The East Belitung Police strengthened coordination with the Regency National Narcotics Agency (BNNK), Health Inas, the prosecutor's office, and rehabilitation institutions so that every process from arrest to rehabilitation application runs integrated. This strengthening of coordination refers to the Joint Regulation of 7 Institutions of 2014 which requires the involvement of various parties in handling addicts and victims of narcotics abuse. Inter-agency collaboration helps ensure each case receives a thorough assessment before a rehabilitation path is decided.

Optimizing the Integrated Assessment Team (TAT) is the key to realizing this synergy. TAT has the

task of conducting medical, psychological, and social evaluations of addicts as the basis for rehabilitation recommendations. The East Belitung Police continues to encourage the strengthening of TAT capacity through technical training, regular meetings, and case data updates so that the assessment process runs quickly and precisely. This step ensures that the TAT recommendation becomes a valid reference for the court in accordance with the mandate of Article 103 of Law Number 35 of 2009 concerning Narcotics. Increasing the capacity of medical rehabilitation facilities is an urgent need considering the growing number of addicts. The local government together with the Police and BNNK are trying to develop adequate rehabilitation facilities, including adding treatment rooms, counseling facilities, and post-rehabilitation services. This effort refers to Article 59 of the Narcotics Law which assigns local governments to provide rehabilitation facilities and infrastructure according to health standards. The construction of adequate facilities is expected to reduce queues and speed up the recovery process of addicts. Strengthening the capacity of human resources is an inseparable parallel step from facility development. The training of addiction-certified medical personnel is promoted through cooperation with the Ministry of Health and national training institutions. Medical personnel and addiction counselors receive continuing education in order to be able to provide rehabilitation

services in accordance with the guidelines of the Minister of Health Regulation Number 50 of 2015. This effort expands the availability of doctors, psychologists, and counselors who have special competencies in the field of addiction.

Adequate funding is an important factor in strengthening rehabilitation programs. The East Belitung Police together with the local government applied for budget support through the APBD mechanism and took advantage of the central BNN assistance program. This step is in line with Article 60 of the Narcotics Law which mandates rehabilitation financing as the government's responsibility. Adequate budget support ensures the continuity of rehabilitation services without compromising the quality of services. The strategy to reduce social stigma in society is carried out through continuous public education programs. The Police and BNNK held socialization in schools, youth communities, and community groups to instill an understanding that addicts are victims of narcotics abuse who deserve rehabilitation. This socialization emphasizes the mandate of Article 54 of the Narcotics Law that addicts must be rehabilitated, not imprisoned, so that the public is invited to change their perspective. This change in perception is expected to foster empathy and support for the recovery process.

The involvement of community leaders and families is an important step to strengthen social support.

Religious leaders, traditional leaders, and community leaders are involved as agents of change in educating residents so that they no longer exclude addicts. The family assistance program is initiated so that parents and relatives are able to provide emotional support during the rehabilitation process. This community-based approach revives the social functions of the family and community in assisting the recovery of addicts. The integration of restorative justice values is applied in socialization programs to reduce stigma. This approach emphasizes the restoration of social relationships between addicts, families, and communities. The East Belitung Police invites the public to see rehabilitation as a means of recovery, not punishment, so that addicts can return to becoming productive members of society. This step strengthens social acceptance which is the key to the success of the rehabilitation process. Criminal theory provides the basis that rehabilitation is a humanist form of punishment. The East Belitung Police applies the principle of rehabilitative punishment that emphasizes improving addict behavior, not just retaliation. This policy refers to Article 103 of the Narcotics Law which allows judges to decide on rehabilitation in lieu of imprisonment. The implementation of this penal theory shows a legal orientation that focuses more on the recovery of the perpetrator than the punitive.

The principle of restorative justice provides direction so that the Police's efforts do not only focus on

addicts, but also on restoring social relationships. Rehabilitation is seen as a means to repair the social rift caused by narcotics abuse. The Police facilitated mediation and dialogue between addicts, families, and the community so that the reintegration process ran smoothly. This approach encourages more thorough justice and fosters a sense of shared responsibility.

Strengthening the effectiveness of the law is carried out by encouraging improvements in the substance of regulations that still give rise to double interpretations. The Police provide recommendations to local governments and related institutions to develop clearer technical guidelines on the mechanism for submitting rehabilitation. The improvement of the substance of the law aims to reduce the uncertainty that often hinders the legal process for addicted. Clarity of rules also supports consistency of law enforcement at the investigation and court levels. Consistent law enforcement is an important indicator of the effectiveness of rehabilitation policies. The Police ensure that each officer understands the assessment procedure and the flow of rehabilitation applications so that there are no differences in treatment between cases. Internal training and periodic supervision are carried out to maintain law enforcement standards. This consistency reinforces public belief that rehabilitation is a protected right.

Strengthening the community's legal culture is a follow-up step that supports the success of rehabilitation.

Public education, the role of community leaders, and ongoing socialization programs are expected to create collective awareness about the importance of addiction recovery. A legal culture that supports rehabilitation will reduce social resistance and increase family participation and the surrounding environment. This awareness is the long-term foundation for the sustainability of medical rehabilitation policies.

Indicators of the success of all these efforts can be seen from the decrease in recidivism rates and the increase in the number of rehabilitation sentences compared to prison sentences. This success shows that cross-sector synergy, capacity building, and strengthening of the legal culture have made a real impact. The decrease in the number of addicts who return to abuse narcotics also reflects the increasing effectiveness of the law according to Lawrence M. Friedman's theory. This success confirms the importance of a humane approach to punishment and restorative justice in handling narcotics addicts. The consistency of program evaluation is the conclusion of the efforts of the East Belitung Police and all stakeholders. Each assessment result, rehabilitation implementation, and recidivism data are analyzed periodically to assess the effectiveness of the policy. This evaluation allows for continuous improvement in every element, both substance, structure, and legal culture, so that the implementation of medical rehabilitation remains

relevant to the needs of the community and the provisions of national law.

D. CONCLUSION

The settlement of narcotics abuse cases based on restorative justice at the Semarang District Attorney's Office refers to the Indonesian Prosecutor's Office Guidelines Number 18 of 2021, which aims to prioritize rehabilitation for narcotics abusers with a restorative justice approach. This guideline strengthens the principle of *dominus litis* that the prosecutor has as the controller of criminal cases. In the process, the prosecutor has the authority not to prosecute perpetrators who meet certain conditions, such as not being part of a narcotics trafficking network, only using for themselves, and having the results of an assessment as a minor abuser. In addition, the perpetrator must undergo rehabilitation, both medical and social, according to the prosecutor's determination. The main goal of this approach is to address the problem of prison overcapacity and encourage more humanistic legal policies. The RA case is a clear example of the application of restorative justice at the Semarang District Attorney's Office. RA was arrested with evidence of methamphetamine weighing 0.62 grams and was proven to have consumed it alone without involvement in the narcotics trafficking network. The results of the assessment showed that RA was a mild

category abuser with a relapse pattern, so it was recommended to undergo inpatient rehabilitation for three months. The Prosecutor's Office then issued a Case Settlement Order with a restorative justice approach. The peace process was carried out and successful, showing the success of this approach in prioritizing rehabilitation rather than imprisonment, in accordance with the objectives of Guideline Number 18 of 2021 and a more progressive direction of national legal policy.

The implementation of restorative justice for narcotics abusers in the Prosecutor's Office faces various obstacles, ranging from the lack of understanding of prosecutors to the concept of restorative justice, weak coordination between law enforcement agencies, limited rehabilitation facilities and budgets, to social pressure and negative stigma from the community. Technical problems such as the classification of perpetrators, the limitations of imperative regulations, and unintegrated administration also hinder the effectiveness of implementation. To overcome this, intensive training for apparatus, the establishment of an integrated task force, collaboration with private rehabilitation institutions, special fund allocation, administrative digitization system, strengthening the role of integrated assessment, and massive public socialization are needed to build public support and trust in this more humane and effective recovery approach.

REFERENCE:

Abintoro Prakorso, *Kriminologi dan Hukum Pidana*, Yogyakarta: Laksbang Grafika, 2013.

Achmad Ali, *Menguak Tabir Hukum*, Bogor: Ghalia Indonesia, 2008.

Achmad Ali, *Menguak Teori Hukum (Legal Theory) dan Teori Peradilan (Judicialprudence) Termasuk Interpretasi Undang-Undang (Legisprudence)*, Jakarta: Kencana, 2009.

Achmad Rifai, *Narkoba di Balik Tembok Penjara*, Yogyakarta: Aswaja Pressindo, 2014.

Adam, S., "Dampak Narkotika pada Psikologi dan Kesehatan Masyarakat," *Jurnal Health and Sport*, Vol. 5 No. 2, 2012.

Adami Chazawi, *Pelajaran Hukum Pidana Bagian I: Stelsel Pidana, Tindak Pidana, Teori Pidanaan, dan Batas Berlakunya Hukum Pidana*, Jakarta: Raja Grafindo Persada, 2011.

Agung Kurniawan, *Transformasi Pelayanan Publik*, Yogyakarta: Pembaharuan, 2005.

Akhmad Khubby Ali Rohmat, "Positivisme dan Pengaruhnya terhadap Penegakan Hukum di Indonesia," *Ma'mal*, Vol. 3 No. 3, 2022.

Al-Fatih, Sholahuddin dan Zaka Aditya, "Hoax and The Principle of Legal Certainty in Indonesian Legal System," *Proceedings of the ICBLP*, 2019.

Ali Rizky, dkk., "Efektivitas Pelaksanaan Produk Hukum Daerah Kota Baubau," *Kainawa*, Vol. 1 No. 1, 2019.

Allcott, H., & Gentzkow, M., "Social Media and Fake News in the 2016 Election," *Journal of Economic Perspectives*, Vol. 31 No. 2, 2017.

Amir Ilyas, *Asas-Asas Hukum Pidana: Memahami Tindak Pidana dan Pertanggungjawaban Pidana*, Yogyakarta: Rangkang Education & PuKAP-Indonesia, 2012.

Andi Hamzah, *Asas-Asas Hukum Pidana*, Jakarta: Rineka Cipta, 1991.

Andi Hamzah, *Hukum Pidana Indonesia*, Jakarta: Sinar Grafika, 2019.

Andi Hamzah, *Narkotika dan Permasalahannya di Indonesia*, Jakarta: Sinar Grafika, 2004.

Anwar, U., dkk., Pengantar Ilmu Hukum, Aceh: Yayasan Penerbit Muhammad Zaini, 2022.

Apong Herlina, dkk., Perlindungan Terhadap Anak yang Berhadapan dengan Hukum, Jakarta: PT Raja Grafindo Persada, 2004.

Arief, Barda Nawawi, "Reformasi Sistem Peradilan di Indonesia," Jurnal Hukum Ius Quia Iustum, Vol. 24 No. 3, 2017.

Arif Gosita, Masalah Korban Kejahatan, Jakarta: Akademika Pressindo, 2009.

Auli, Victor Fitrizal, dkk., "Controlling Perpetrators of Spreading Fake News...", Jurnal Studi Komunikasi, Vol. 8 No. 1, 2024.

Bagir Manan, Restorative Justice (Suatu Perkenalan) dalam Refleksi Dinamika Hukum Rangkaian Pemikiran dalam Dekade Terakhir, Jakarta: Perum Percetakan Negara RI, 2008.

Bambang Ariyanto Pramono, Sosiologi Hukum, Surabaya: Scopindo Media Pustaka, 2020.

Bambang Poernomo, Pertumbuhan Hukum Penyimpangan di Luar Kodifikasi Hukum Pidana, Jakarta: Bina Aksara, 1997.

Barda Nawawi Arief, *Kapita Selekta Hukum Pidana*, Bandung: Citra Aditya Bakti, 2003.

Burhan Ashshofa, *Metode Penelitian Hukum*, Jakarta: Rineka Cipta, 2013.

Burt Galaway dan Joe Hudson, *Criminal Justice, Restitution and Reconciliation*, New York: Criminal Justice Press, 1990.

Cragg, W., "The Practice of Punishment: Towards a Theory of Restorative Justice," *Routledge Journal*, 2003.

Dadang Hawari, *Penyalahgunaan dan Ketergantungan NAZA (Narkotika, Alkohol dan Zat Adiktif)*, Jakarta: Badan Penerbit FKUI, 2012.

Djoko Prakoso, *Kejahatan-Kejahatan yang Merugikan dan Membahayakan Negara*, Bandung: Bina Aksara, 2000.

Djoko Prakoso, *Surat Dakwaan, Tuntutan Pidana dan Eksaminasi Perkara dalam Proses Pidana*, Yogyakarta: Liberty, 2014.

E.Y. Kanter dan S.R. Sianturi, *Asas-Asas Hukum Pidana dan Penerapannya*, Jakarta: Storia Grafika, 2002.

Eddy O.S. Hiariej, *Prinsip-Prinsip Hukum Pidana*, Yogyakarta: Cahaya Atma Pustaka, 2016.

Eriyantouw Wahid, *Keadilan Restoratif dan Peradilan Konvensional dalam Hukum Pidana*, Jakarta: Universitas Trisakti, 2009.

Eunike Sri Tyas Suci, dkk., *Long and Winding Road: Jalan Panjang Pemulihan Pecandu Narkoba*, Jakarta: PT Kompas Media Nusantara, 2015.

Gunawan, G., "Dekriminalisasi Pecandu Narkotika," *Sosio Informa*, Vol. 2 No. 3, 2016.

Harahap, O. A., "Penyalahgunaan Narkoba pada Remaja," *Multilingual Journal of Universal Studies*, Vol. 3 No. 4, 2023.

Hidayatun, S., & Widowaty, Y., "Konsep Rehabilitasi Bagi Pengguna Narkotika yang Berkeadilan," *Jurnal Penegakan Hukum dan Keadilan*, Vol. 1 No. 2, 2020.

John Braithwaite, *Principles of Restorative Justice*, Oxford: Hart Publishing, 2003.

Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif*, Malang: Bayumedia Publishing, 2006.

Johnstone, G., & Van Ness, D. W., "The Meaning of Restorative Justice," dalam *Handbook of Restorative Justice*, 2013.

Juliana Lisa FR dan Nengah Sutrisna W., *Narkoba, Psikotropika dan Gangguan Jiwa*, Yogyakarta: Nuha Medika, 2013.

Laksono, S. D., dkk., "Implementasi Pasal 54 UU No. 35 Tahun 2009 tentang Narkotika," *Iustitia Omnibus*, Vol. 5 No. 2, 2024.

Lilik Mulyadi, *Bunga Rampai Hukum Pidana Umum dan Khusus*, Bandung: PT Alumni, 2012.