

The Implementation of Rehabilitation Assessment as Legal Protection for Narcotics Abusers in Indonesia

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Abstract

Nowadays, illicit trafficking and narcotics abuse have been at a dangerous level and threatened various aspects of the life of the nation and state and have even penetrated most levels of society, from the upper classes to the lower classes. The government reacted by issuing Law No. 35 of 2009 on narcotics as an amendment to Law No. 22 of 1997 on narcotics. Based on Article 4 letter d of Law 35 of 2009 concerning state narcotics, the government also provides legal protection for victims of narcotics abuse and addicts through medical rehabilitation and social rehabilitation. From Article 4 letter d of Law 35 of 2009 on narcotics, the researchers analyzed the process of rehabilitation assessments for victims of narcotics abuse and addicts. The researchers also analyzed and discussed the extent to which the laws and regulations in Indonesia have provided legal protection for them. The authors used library research methods that were juridical-normative. The research aimed to: 1) explain the rehabilitation assessment process for victims of narcotics abuse, the meaning of rehabilitation assessment, and the legal basis for rehabilitation assessment in Indonesian regulations; 2) explain the implementation of rehabilitation assessment for victims of narcotics abuse, including rehabilitation assessment related to the cases that researchers discussed in this article. Thus, this research answered several legal issues regarding rehabilitation assessment that exists and occurs in both theoretical and legal practice.

Keywords: victims of narcotics abuse; rehabilitation assessment; legal protection.

Abstrak

Saat ini, perdagangan gelap dan penyalahgunaan narkotika telah berada pada tingkat yang berbahaya dan mengancam berbagai aspek kehidupan bangsa dan negara dan bahkan telah merambah sebagian besar lapisan masyarakat, dari kelas atas hingga kelas bawah. Pemerintah bereaksi dengan menerbitkan UU No. 35 Tahun 2009 tentang narkotika sebagai amandemen uu No. 22 Tahun 1997 tentang narkotika. Berdasarkan Pasal 4 huruf d UU 35 Tahun 2009 tentang narkotika negara, pemerintah juga memberikan perlindungan hukum bagi korban penyalahgunaan dan pecandu narkotika melalui rehabilitasi medik dan rehabilitasi sosial. Dari Pasal 4 huruf d UU 35 Tahun 2009 tentang narkotika, para peneliti menganalisis proses penilaian rehabilitasi bagi korban penyalahgunaan dan pecandu narkotika. Para peneliti juga menganalisis dan mendiskusikan sejauh mana hukum dan peraturan perundang-undangan di Indonesia telah memberikan perlindungan hukum bagi mereka. Para penulis menggunakan metode penelitian perpustakaan yang yuridis-normatif. Penelitian ini bertujuan untuk: 1) menjelaskan proses penilaian rehabilitasi bagi korban penyalahgunaan narkotika, makna penilaian rehabilitasi, dan dasar hukum penilaian rehabilitasi dalam peraturan Perundang-undangan Indonesia; 2) menjelaskan pelaksanaan penilaian rehabilitasi bagi korban penyalahgunaan narkotika, termasuk penilaian rehabilitasi terkait kasus-kasus yang dibahas peneliti dalam artikel ini. Dengan demikian, penelitian ini menjawab beberapa permasalahan hukum mengenai penilaian rehabilitasi yang ada dan terjadi baik dalam praktik teori maupun hukum.

Kata kunci: korban penyalahgunaan narkotika; penilaian rehabilitasi; perlindungan hukum.

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Introduction

Illicit trafficking and narcotics abuse is a complicated problem that doesn't only happen to specific groups in big cities. In its development, the illegal distribution of narcotics has targeted children in remote rural areas. Narcotics are sold at affordable prices in various types, shapes, and sizes. Given these dire conditions, President Joko Widodo stated that Indonesia is in a state of drug emergency, and the State declared war on drugs. In a survey, the National Narcotics Agency noted that 74% of excess inmates from the total capacity of prisons in Indonesia are prisoners related to narcotics cases.

Narcotics abuse has a very complex impact on users who consume the drugs without a medical prescription or doctor's recommendation. These adverse effects include physical and mental disorders. Even more, if drugs are misused or used without the standard of treatment, it can endanger the users' lives. Thus, narcotics are a significant threat to the survival of a nation (BNN, 2011).

The State shows commitment to dealing with and eradicating narcotics problems by issuing regulations on narcotics use, including the threat of minimum and maximum sanctions for perpetrators. Criminal penalties for narcotics users or dealers are regulated in Law no. 35 of 2009 concerning narcotics, which can be in the form of rehabilitation, imprisonment, and even the death penalty (Sunarso, 2004). The purpose of the enactment of Law No. 35 of 2009 concerning narcotics is to reduce the number of narcotics abuse and illicit trafficking in Indonesia.

Law No. 35 of 2009 also regulates legal protection for addicts and victims of narcotics abuse, by providing access to medical and social rehabilitation. However, the implementation of this legal protection has not been carried out optimally. In reality, there are many cases of imprisonment for addicts and victims of narcotics abuse in criminal adjudication in Indonesia.

Based on the view that victims of narcotics abuse (addicts) are victims of crimes they have committed themselves (self-victimizing victims), every narcotics abuser must have access to medical and social rehabilitation without exception. This is in line with Article 54 of Law No. 35 of 2009 concerning narcotics which explains that Narcotics Addicts and Victims of Narcotics Abuse must undergo medical rehabilitation and social rehabilitation. Rehabilitation is a mandatory sanction for addicts and victims of narcotics abuse.

This study aimed to analyze the process and implementation of rehabilitation assessment according to the laws and regulations in Indonesia. It is mainly related to cases that occurred, both the rehabilitation assessment case through a court decision at the Purwokerto District Court and the rehabilitation assessment through restorative justice at the Banyumas City Resort Police Office.

This research explored whether someone considered "sick" due to dependence on illegal drugs or narcotics should be sentenced to prison like other crimes. Or is another sanction needed to restore his medical, psychological, and mental state? Then, what kind of rehabilitation assessment is necessary, based on court decisions or through restorative

justice in the police? The researchers were interested in discussing the implementation of rehabilitation assessment as legal protection for victims of narcotics abuse in Indonesia.

Research Problems

Based on the above background, the formulation of the problem in this writing is first, "How is the rehabilitation assessment for victims of narcotics abuse based on the provisions of laws and regulations in Indonesia?", secondly, "To what extent was the rehabilitation assessment used as legal protection for victims of narcotics abuse, especially in case number: 167/Pid.Sus/2021/PN. Pwt and case with restorative justice at the Banyumas City Resort Police Office?"

Research Methods

The research was conducted by using library research methods that are juridical-normative. Normative or library law research methods are used in legal research by examining library materials (Soekanto, 2009). Literature study is the single method used in normative legal research (Waluyo, 2002) by analyzing primary legal materials in the form of laws, related regulations, and provisions; and secondary legal materials consisting of books, scientific journals, papers, working papers, and experts' writing related to this article. In this research, researchers used the method because it is the most appropriate method for examining existing and available library materials.

Discussion

Process and Implementation of Rehabilitation Assessment For Victims of Drug Abuse Following Regulations in Indonesia's Law

Law enforcement in Law Number 35 of 2009 concerning narcotics classifies two groups of criminal acts. First, the narcotics dealers include those who produce, export, and/or import, carry out transportation, and carry out illicit trafficking of narcotics and narcotics precursors. Second, the group of narcotics users, in which there are narcotics addicts and victims of narcotics abuse. In Law Number 35 of 2009, narcotics addicts and victims of narcotics abuse have different meanings. Narcotics addicts are people who use narcotics or consume narcotics in a state of dependence on them. Meanwhile, the victim of narcotics abuse can be interpreted as someone who accidentally uses narcotics, because he is forced, cheated, or threatened to abuse narcotics.

In some literature, legal experts explicitly categorize narcotics abusers as victims. According to Ezzat Abdul Fateh, narcotics abusers are in the typology of false victims, or perpetrators who become victims because of themselves. Meanwhile, from the perspective of the victim's responsibility, self-victimizing victims means that the perpetrator becomes a victim because of a crime he committed, or is often referred to as a victimless crime (Kusumah, 1982). Another opinion states that victims of abuse are classified as victimless crimes or crimes without victims because it usually does not have a target victim; all

parties are involved. In addition, it can also be categorized as a crime without a victim (Kusumah, 1982). The definition of victimless crime means that this crime does not cause any victims. The perpetrator of the crime is the victim.

Law Number 35 of 2009 concerning narcotics provides legal protection for those who are addicts and victims of narcotics abuse. In fact, rehabilitation assessment offers legal protection for narcotics abusers. Therefore, medical rehabilitation and/or social rehabilitation can be carried out by victims of drug abusers and addicts. Rehabilitation is a form of action sanction that is outside the Criminal Code (Ali, 2015). In Law Number 35 of 2009, there are two types and processes of rehabilitation based on the timing of the assessment: rehabilitation through the judicial process, and rehabilitation through a non-judicial process.

Determination of rehabilitation through a narcotics abuse court process is a criminal act that violates the provisions of Law Number 35 of 2009 concerning narcotics. Article 127 paragraph (3) of the Narcotics Law explains that abusers who were charged with Article 127 paragraph (1) of the Narcotics Law are obliged to undergo rehabilitation. If after the examination process at the trial is complete, the defendant is legally and convincingly proven as a victim of narcotics abuser and addicts in Article 127 paragraph (3) of the Narcotics Law and has also received an assessment from the competent institution regarding medical or social rehabilitation; then they can get a legally binding decision that stipulates that they will be placed in a designated rehabilitation center/institution.

Besides assessment through the trial process, in Law Number 35 of 2009, there is also rehabilitation through a non-judicial process. This rehabilitation is carried out before the victims of abusers and narcotics addicts face the law and enter the trial process. The determination of rehabilitation through a non-judicial process is based on Article 55 paragraphs (1) and (2) of the Narcotics Law which essentially explains that a narcotics addict must report himself when he is old enough. If he is not old enough, his parents or guardians must report to the public health center, hospital, and/or medical rehabilitation and social rehabilitation institution appointed by the government to receive treatment through medical and social rehabilitation until assessment results are issued.

Rehabilitation assessment, as referred to in Article 55 of Law Number 35 of 2009, is very rarely carried out. It is because people generally think that narcotics are “purely legal issues”. Society and families often judge victims of abuse and/or addicts with a negative stigma. It is rare for people or families to consciously report to the government or rehabilitation institutions as an effort to obtain an assessment of treatment rehabilitation for the victims of narcotics abuse and or narcotics addicts. In reality, many victims of narcotics abuse and addicts are dragged into legal problems by dealing with law enforcement officials. Then, it would further exacerbate the victims’ mental and psychological health because they do not get the medical and social rehabilitation they need.

Providing access to medical rehabilitation for narcotics abuse victims and addicts is not as simple as imagined. It requires a long journey and debate between the criminal and

the health approaches that trigger a tug of war between the two parties using these different approaches. However, upon closer inspection, after the enactment of Law Number 35 of 2009 concerning narcotics, the government/state realizes that there must be a change in approach to handling victims of drug abusers and addicts. They should be kept from the criminal approach and more directed at the public health approach in providing rehabilitation assessments. The government's attention as mentioned above is a form of providing legal protection from the government/state to victims of narcotics abuse and addicts. The researchers described and stated the statutory regulations as the legal basis and guidelines regarding the provision of rehabilitation assessments for victims of drug abuse and addicts, provided by the government as an effort to protect the law for victims of drug abusers and addicts.

The first legal basis as a reference for the rights of victims of abuse to obtain medical rehabilitation is Law Number 35 of 2009 on narcotics. Article 54 to Article 58 of Law Number 35 of 2009 clearly mentions treatment and rehabilitation. Furthermore, it is clearly stated that narcotics addicts and victims of narcotics abuse are required to receive both medical and social rehabilitation.

Article 54 states:

Narcotics addicts and victims of narcotics abuse are required to undergo medical rehabilitation and social rehabilitation.

Article 55 states:

- (1) The parent or guardian of the Narcotics Addicts who is not old enough shall report to the community health center, hospitals, and/or medical rehabilitation institutions and social rehabilitation which appointed by the government to obtain the treatment and/or rehabilitation care through medical and social rehabilitation.
- (2) Narcotics addicts who are old enough are required to report themselves or reported by family to the community health center, hospitals, and/or medical rehabilitation institutions and social rehabilitation which appointed by the government to obtain the treatment and/or rehabilitation care through medical and social rehabilitation.
- (3) Provisions concerning the reporting obligation referred to in paragraph (1) and paragraph (2) shall be regulated by a Government Regulation.

Article 56 states:

- (1) Medical Rehabilitation of Narcotics Addicts performed at hospitals designated by the Minister.
- (2) A certain rehabilitation institution that was held by government agencies or communities can perform medical rehabilitation for Narcotics addicts after obtaining the approval of the Minister.

Article 57 states:

Other than through treatment and/or medical rehabilitation, healing Narcotics Addicts can be held by a government institution or society through religious and traditional approaches.

Article 58 states:

Social rehabilitation of former narcotics addicts was held by the government and society.

Furthermore, the second legal basis as a reference for the rights of victims of abuse to obtain medical rehabilitation is the Supreme Court Circular (SEMA) No. 4 of 2010 concerning the Determination of Narcotics Abuse and Addicts into Medical Rehabilitation and Social Rehabilitation Institutions. The SEMA stated the terms and conditions for the defendant to get a decision in the form of a medical assessment. The terms and conditions include a lab certificate stating positive for using narcotics, a doctor/psychiatrist's certificate, and there is no indication of being involved in illicit narcotics trafficking.

The third legal basis as reference for the rights of victims of abuse to obtain medical rehabilitation is the Joint Regulation of the Chief Justice of the Republic of Indonesia, the Minister of Law and Human Rights of the Republic of Indonesia, the Minister of Health of the Republic of Indonesia, the Minister of Social Affairs of the Republic of Indonesia, the Attorney General of the Republic of Indonesia, The Head of the Indonesian National Police, and the Head of the National Narcotics Agency of the Republic of Indonesia Number: 01/PB/MA/III/2014, Number: 03 of 2014, Number: 11/2014, 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 in Rehabilitation Institutions

The rights of victims of abuse to obtain medical rehabilitation are also stated in 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 Abusing into rehabilitation institutions. The fourth legal basis and the reference are as follows.

Article 2 states:

The aims and objectives of this regulation are to:

- a. become a technical guideline for handling Narcotics Addicts and Victims of Narcotics Abuse who are without rights and against the law and have been designated as suspects to undergo rehabilitation; and
- b. regulate the implementation of suspects placement into rehabilitation institutions so that they can be carried out in an appropriate, transparent and accountable manner, based on recommendations from the Integrated Assessment Team.

Article 19 states:

- (1) Placement in a rehabilitation institution is the authority of the investigator after obtaining a recommendation from the Integrated Assessment Team.
- (2) As referred to in paragraph (1), placement into a rehabilitation institution is carried out by the investigator to a rehabilitation institution appointed by the government, accompanied by an Official Report of Placement in a rehabilitation institution.

Article 22 states:

- (1) The Public Prosecutor for the purpose of prosecution and the Judge for examination in court, may request assistance from the local Integrated Assessment Team to conduct an assessment of the Defendant.

- (2) The assessment assistance as referred to in paragraph (1) is carried out based on this Regulation and the results are submitted to the Public Prosecutor or Judge with the Minutes of submission of the recommendation of the assessment results.

The four legal bases and the basis of reference for the rights of victims of drug abuse and addicts to obtain a rehabilitation assessment that the author mentioned above are not legal and basic references for rehabilitation assessments. Provisions that regulate technically regarding the process and implementation of rehabilitation, among others, are as follows:

1. Regulation of The Minister of Health of The Republic of Indonesia Number 80 of 2014 concerning technical guidelines for implementing medical rehabilitation for addicts, abusers, and victims of narcotics abuse that are in the process of investigation, prosecution, and/or have received court decisions.
2. Regulation of The Attorney General of The Republic of Indonesia Number Per-29/a/ja12/2015 concerning technical instructions for handling narcotics administrations and victims of abuses into rehabilitation agency.
3. Regulation of The Minister of Health of The Republic of Indonesia Number 46 Year 2012 concerning technical guidelines for implementing medical rehabilitation for addicts, abusers, and victims of narcotics abuse that are in process or who have been disclosed by the court

Success in dealing with the problems of victims of drug abusers and addicts so that they can return to their normal lives cannot be separated from the role of the community, government, and law enforcement officials. On the one hand, society must become a support system for victims of drug abuse and addicts and keep them away from the negative stigma. The public even has to keep the victims of narcotics abuse and addicts away from being seen as criminals, because they are actually victims of the illegal circulation of narcotics in this country. On the other hand, the government or the State as the highest policy maker must provide opportunities, access, facilities, and legal protection for victims of narcotics abuse. They should be given the widest possible access and opportunity to get a rehabilitation assessment, either medical rehabilitation or social rehabilitation, and place them in appropriate hall or institutional facilities. Law enforcement officers are the most important parties because at the stage of the legal process they should be consistent and enforce government regulations in an effort to maximize the role of rehabilitation for victims of drug abusers and addicts by providing broad accesses so that they get proper rehabilitation assessments, both in terms of settlement of cases through court decisions or settlements at the stage prior to trial. Thus, the victims of narcotics abuse and addicts can return to normal lives without any justification as bad people/criminals in the eyes of the law and society, as well as in social interaction.

Assessment of Rehabilitation as Legal Protection For Victims of Narcotics Abuse in Indonesia

Law Number 35 of 2009 concerning narcotics, as stated in Article 54 of the Narcotics Law, is a legal protection for victims of narcotics abuse and addicts. The regulation has encouraged the Indonesian government to create other facilities that are expected to function and provide a solution such as using non-penal means, often referred to as prevention without punishment (Muladi, 1995). These non-penal facilities are medical and social rehabilitation facilities, which can be obtained by victims of drug abusers and addicts, either through judicial/trial or non-judicial processes, in which case the authorized party or institution has assessed the rehabilitation in question.

The rehabilitation assessment mechanism for victims of narcotics abuse and addicts is a form of state and government concern for handling cases of criminalization of victims of drug abusers and addicts. For this reason, the government concretely created a special integrated assessment team. Furthermore, referring to Law Number 35 of 2009 concerning Narcotics, victims of narcotics abuse and addicts seem like someone standing on two legs; one foot is on the dimension of health, and the other is on the dimension of law. In the health dimension, narcotics abusers seems like a chronically ill person who is addicted, must be cured through rehabilitation (Haryadi, 2021). Meanwhile, in the legal dimension, society, even law enforcement, often labels abusers as criminals who must be punished for violating the provisions of the law.

Law No. 35 of 2009 on Narcotics has provided a solution by integrating two legal and health approaches through rehabilitation punishment. The integration of the two approaches is carried out through a rehabilitation assessment mechanism, in which there is a process that will produce recommendations on whether or not a suspect or defendant can be rehabilitated. The rehabilitation assessment mechanism is important to analyze from the perspective of criminal law policy, based on the principles of *Ius Constitutum*, *Ius Operatum*, and *Ius Constituendum*. Furthermore, in this rehabilitation assessment mechanism, it is a challenge for law enforcement officers: investigators, public prosecutors, and judges, to overcome problems that arise related to cross-agency problems, both in terms of technical regulations and their implementation.

The rehabilitation assessment mechanism is the result of a combination and analysis between the medical team and the legal team to determine whether the suspect or defendant of a narcotic crime is included in the narcotics abuser or narcotics dealer category. This relates to the assessment of them as victims of narcotics abuse and addicts as sick people who need rehabilitation treatment, or on the contrary, as perpetrators of criminal acts as dealers or intermediaries for the circulation of illegal narcotics who must be given appropriate criminal punishment.

The reality on the ground shows that getting a decision and/or settling a case by completing a rehabilitation assessment for victims of abusers and narcotics addicts is not an easy thing to achieve. This is based on the fact that judges' decisions in the form of rehabilitation are still relatively rare. On the other hand, most of the victims of narcotics

abuse and addicts were sentenced to prison terms and sentences, even though the provisions of the Narcotics Law have guaranteed medical and social rehabilitation efforts, as regulated in Article 54, Article 56, Article 103, and Article 127 of the Narcotics Law. This can be seen from the decision on narcotics cases in the Special Region of Yogyakarta, which through an integrated assessment mechanism, from a total of 34 cases resulted in a judge's decision in the form of imprisonment for 33 cases equivalent to 97.05%.

Facts on the ground, which have also been revealed by the authorized institution BNN Yogyakarta showed that judges and/or legal settlements rarely used the completion of rehabilitation assessments for victims of drug abusers and addicts. Therefore, the researchers were very interested in analyzing two different cases. The first is an analysis of case number: 167/Pid.Sus/2021/PN.Pwt, and the second is the settlement of a narcotics abuse case with restorative justice at the Banyumas City Resort Police Office. The researchers analyzed the extent to which laws and regulations regarding rehabilitation assessment were applied in this case in an effort to enforce rights and implement legal protection for victims of drug abusers and addicts.

The Purwokerto District Court adjudicated criminal cases at the first level court, with an ordinary examination procedure, has decided case number 167/Pid.Sus/2021/PN.Pwt on behalf of the defendant ANP (initials) who was suspected and charged with being brought before the court. trial by the Public Prosecutor of the Purwokerto District Attorney. ANP was charged with the crime of "a narcotics abuser of type I for himself", as stipulated in Article 127 of Law Number 35 of 2009 concerning narcotics, as indicted by the second alternative Public Prosecutor. Furthermore, in the examination of the trial, the Public Prosecutor demanded that the Defendant ANP be sentenced to imprisonment for 8 (eight) months in prison. In legal considerations, the panel of judges examining and adjudicating the case has also considered the defense of the legal counsel of the defendant ANP who asked the defendant ANP to perform medical and social rehabilitation treatment with legal considerations the verdict as follows:

Considering, Article 54 of Law no. 35 of 2009 concerning Narcotics, states that narcotics addicts and victims of narcotics abuse are required to undergo medical rehabilitation and social rehabilitation;

Considering, Article 103 Paragraph (1) letter a of Law no. 35 of 2009 concerning Narcotics explains that the judge who examines the case of narcotics addicts may decide to order the person concerned to undergo treatment and/or treatment through rehabilitation if the narcotics addict is proven guilty of committing a narcotic crime;

Considering, based on the Circular Letter of the Supreme Court (SEMA) Number 04 of 2010 concerning Placement of Abuse, Victims of Abuse, Narcotics Addicts into Medical Rehabilitation and Social Rehabilitation Institutions, the application of rehabilitation punishment can only be imposed on the classification of criminal acts as follows: a. The defendant was caught red-handed at the time of his arrest by Polri investigators and BNN investigators. b When caught red-handed, evidence of 1 (one) day use was found for 1 gram of methamphetamine (shabu); c. Letter of positive laboratory test using narcotics based on the investigator's request, d. A certificate

from a psychiatrist/government psychiatrist is required who is appointed by the judge. E. There is no evidence that the person concerned is involved in the illicit traffic of Narcotics;

Considering, based on the testimony of witness Teguh Prasetyo and witness Agustinus Bayu P who arrested the Defendant, the Defendant was not the target of the operation and the methamphetamine would be used by the Defendant himself. Also, based on the Recommendation Letter of Integrated Assessment Results from BNN Banyumas Regency Number: R/145/VIII/Ka/Pb.02/2021/BNNK BMS dated 20 August 2021 against the suspect, ANP is not indicated to be involved in the narcotics network either as a courier/dealer/porter. The Medical Team concluded that the suspect ANP was a class I narcotics abuser of the Methamphetamine type who had experienced moderate dependence. In this regard, the Integrated Assessment Team recommends that the suspect, Agnes Nova Puspitasari, alias Nova Binti Agus Lestiono, needs to be given inpatient rehabilitation services for 3 months at the BRSKP Drugs "Satria" Baturraden. Thus, based on these considerations, the Panel of Judges is of the opinion that the defense of the Defendant's Legal Counsel to carry out the medical rehabilitation must be granted because it has legal grounds;

Thus, the panel of judges at the Purwokerto District Court case number 167/Pid.Sus/2021/PN.Pwt has issued the following verdict:

ADJUDICATE

1. Declare that Defendant Agnes Nova Puspitasari, alias Nova Binti Agus Lestiono, was legally and convincingly proven guilty of committing the criminal act of Narcotics Abuse Category I for herself as stated in the second alternative indictment of the Public Prosecutor;
2. Sentence Defendant therefore with imprisonment for 7 (seven) months;
3. Order the Defendant to undergo medical and social rehabilitation at the "Satria" Baturraden Social Rehabilitation Institute for Drug Abuse for 3 (three) months;
4. Determine the period of undergoing rehabilitation to be counted as a period of serving a sentence;
5. Determine the period of arrest and detention that the Defendant has served is deducted entirely from the sentence imposed;
6. Determine that Defendant remains in custody;
7. Determine the evidence in the form of:
 - 1 (one) transparent plastic clip containing crystal powder suspected of shabu with a gross weight of 0.48 grams
 - 1 (one) bong (shabu suction device) made of a glass bottle with a lid, a white straw, and a glass pipette connected to a red rubber;
 - 1 (one) unit of Blue Realme mobile phone with Sim Card 081575224983;
 - 1 (one) piece of blue long jeans with LOIS printed on it;
 - 1 (one) plastic bag containing the urine of Defendant Agnes Nova Puspitasari, alias Nova Binti Agus Lestiono; seized for destruction;
8. Charged the Defendant with a case fee of Rp. 2,000.00 (two thousand rupiah);

After carefully reading and analyzing the legal considerations, facts consideration, and the decision of case number 167/Pid.Sus/2021/PN.Pwt of the Purwokerto District Court, the researchers concluded that the panel of judges, in this case, had carefully, precisely, and correctly considered the applicable laws and regulations regarding the legal

basis/guidelines for perpetrators of victims of abuse to obtain a decision in the form of social rehabilitation. It refers to the statutory regulations Article 54 and Article 103 (1) letter a of Law Number 35 of 2009 concerning Narcotics, as well as considering the legal rules of the Supreme Court Circular Letter (Surat Edaran Mahkamah Agung/SEMA) Number 04 of 2010 concerning Placement of Victims of Abuse and Narcotics Addicts into the medical rehabilitation and social rehabilitation. If it is related to the facts at trial, Defendant ANP has obtained a rehabilitation assessment letter in the form of an Integrated Assessment Result Recommendation Letter from BNN Kab. Banyumas Number: R/145/VIII/Ka/Pb.02/2021/BNNK BMS of 20 August 2021. In addition, the defendant ANP was not involved in the illicit trafficking of narcotics.

Furthermore, the second case analysis is about the settlement of one of the narcotics abuse cases with restorative justice at the Banyumas City Resort Police Office. This case was experienced by the suspect, ADI SUGIARTO. He was born in Purworejo, June 26, 1982, having Indonesian citizenship with NIK 3302242606820004, lived at Perumahan Puri Indah Block A Number 26 RT 001 RW 001 Karangklesem, South Purwokerto, Banyumas Regency. In this case, the suspect is suspected of abusing narcotics class I for himself. The arrest took place on Monday, May 16, 2022 at 22.00 WIB, in a housing estate on Jl Gerillia RT 006 RW 001, Tanjung Village, South Purwokerto District, Banyumas Regency. The family and legal counsel of the US suspect requested and submitted a rehabilitation assessment to the Banyumas Regency Integrated Assessment Team. After going through a series of examinations, the results of the assessment or a letter of recommendation for medical rehabilitation were issued. Based on the assessment results and recommendation for rehabilitation, the Banyumas District Police Office invited the case settled in a restorative justice manner. The settlement was carried out on Saturday, May 21, 2022, in the Banyumas Police Criminal Investigation Unit. The results of the assessment and recommendations for social rehabilitation from the Integrated Assessment Team were attached to the minutes of the restorative justice case settlement.

Actions that lead to rehabilitation assessment can already be carried out in the investigation stage. The authority to investigate narcotics crimes rests with the National Narcotics Agency (BNN) and the Indonesian National Police (POLRI). The assessment process that occurs at the investigation level also occurs in the same way. This similarity can be seen from the position of the two institutions that are members of the legal team on the integrated assessment team (Muslihan, 2019). The settlement of cases using restorative justice for narcotics abusers at the Banyumas Police Office, according to researchers' views and analysis, is in accordance with the legal provisions of the legislation. Cooperation between investigators and the National Narcotics Agency has also been well established. Inter-institutional coordination is important because good coordination between institutions will determine whether a victim of abuse will receive a rehabilitation assessment and be handed over to a rehabilitation center (Afrizal, 2019). Laws and regulations that have been considered and applied by Banyumas Police

investigators in handling the settlement of restorative justice cases in narcotics abuse cases are as follows.

1. Having observed and implemented the Joint Regulations of the Chairman 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 Head of the State 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 of 2014, Number: 11/2014, 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 in Rehabilitation Institutions.
2. Having observed and implemented 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 in Rehabilitation Institutions in Article 19: "The placement in a rehabilitation institution is the authority of the investigator, after obtaining a recommendation from the Integrated Assessment Team. As referred to in paragraph (1), placement into a rehabilitation institution is carried out by the investigator into a rehabilitation institution appointed by the government, accompanied by an Official Report of Placement in a rehabilitation institution."
3. Have observed and implemented the legal rules of the Guidelines and Directions (Jukrah) RJ Number: ST/145/Res.4/XI/2021/BARESKRIM Juncto Regulation of the Indonesian National Police Number 8 of 2021 concerning Handling of Crimes Based on Restorative Justice.

From the analysis of the two cases above, it can be concluded that the absolute requirement for a person to obtain a decision and/or settle a case with rehabilitation is having an assessment/recommendation assessment from the integrated assessment team. It is this assessment/recommendation that will determine which victims of abusers and addicts will get a decision and case settlement in the form of rehabilitation or vice versa, with the completion of a legal process that ends in imprisonment. It is clear that law enforcement officers at the police, prosecutor's and judges' levels will not give decisions and/or settle cases of victims of abusers and addicts with rehabilitation if there is no assessment letter/recommendation from the integrated assessment team. Therefore, BNN Yogyakarta provides very logical data, with a percentage of 97.05% of narcotics abuse cases in Yogyakarta receiving prison sentences instead of rehabilitation. The attitudes and views of law enforcement officials who make assessments/recommendations from the integrated assessment team as one of the requirements for victims of narcotics abuse and addicts to get decisions and resolve cases in rehabilitation, cannot be blamed, because they only carry out orders according to the laws and regulations.

Furthermore, as we know in the laws and regulations governing the provision of rehabilitation assessments for victims of narcotics abuse and addicts as a written legal basis that the government/state has provided as a legal umbrella and implementation of legal protection for narcotics abusers and addicts. However, in reality, these normative rules must also be balanced with implementing laws so that normative regulations as a legal umbrella and the implementation of legal protection for victims of abusers and addicts can work properly. In practice, the problems and legal problems of rehabilitation assessment as legal protection for victims of narcotics abuse that occur in Indonesia are not supported by implementing regulations or technical regulations for the implementation of integrated assessments, which should be guided by the flexibility and ease of access to rehabilitation assessments from the integrated assessment team.

In fact, legal problems described above are about access to freedom and convenience to get a rehabilitation assessment from the integrated assessment team, which in practice is not that easy to get. The obstacles are influenced by factors including economic factors, bad stigma from the community and even families of victims of drug abusers and addicts so that they prioritize the label of criminalization instead of victims, knowledge factors for the Integrated Assessment Team, Resources from the Integrated Assessment Team and even certain geographic areas. Furthermore, in the view of the researchers, the Integrated Assessment Team should always be involved in the stages of examination for victims of narcotics abuse who are in conflict with the law in the stages of investigation, pre-prosecution, and trial. So, it is hoped that the Integrated Assessment Team will accompany victims of drug abuse and addicts who are dealing with the law, just like the correctional bureau (BAPAS) which accompanies children who are dealing with the law.

Conclusion

The government has provided a legal umbrella in the form of statutory regulations in the form of rules in the form of laws, government regulations, and ministerial regulations to implement regulations in technical arrangements issued by government agencies. This is an implementation of legal protection for victims of drug abusers and addicts to get a rehabilitation assessment. Furthermore, victims of abusers who are in conflict with the law can get a decision and/or settlement of a case through rehabilitation either through a court decision or a restorative justice settlement on the condition that an assessment letter/recommendation for rehabilitation has been issued from the integrated assessment team.

Suggestion

Considering that an assessment or rehabilitation recommendation from an integrated assessment team is an absolute requirement for victims of narcotics abuse and addicts in obtaining decisions and or resolving rehabilitation cases and kept away from criminal penalties, the Integrated Assessment Team should be given more “portion” in the

criminal justice system in Indonesia. The government should give more duties and portions to the Integrated Assessment Team through laws and regulations that will allow and require them to be involved. They should provide legal assistance to victims of abusers and narcotics addicts at every stage and process of resolving criminal cases, in the police department, prosecutor's office, and at the trial stage. This is like the task and role of BAPAS in assisting children in conflict with the law, so that the criminalization of victims can be minimized and the implementation of rehabilitation assessments as legal protection for victims of drug abuse and addicts can be carried out properly.

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