

The Juridical Analysis of Police Handling of Narcotics Abuse Crimes through Restorative Justice

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Abstract. *The purpose of this research is To know and analyze Mechanism for police handling of criminal acts of narcotics abuse through Restorative Justice. To know and analyze p.spolice considerations in solving cases criminal acts of narcotics abuse through Restorative Justice. The research method used is normative juridical research type. This research is descriptive in nature. The legal materials used are secondary legal materials. Procedures and Collection of Legal Materials through library research and Processing and Analysis of legal materials are then analyzed through description using qualitative methods. The results of this study are the Police Handling Mechanisms for Narcotics Abuse Crimes through Restorative Justice, namely making administrative investigations (initial interrogation, celebrating communication tools, case titles, making police reports, investigative warrants, minutes of examination of witnesses, urine tests), the suspect submits a letter application to the Kapolda/Kapolres, the investigator makes the administration of the investigation (request for assessment, determination of the status of evidence, determination of approval for confiscation, Minutes of Examination of Suspects), implementation of assessments, coordination with Balai POM, results of assessments and recommendations from the Head of Regional Police/Head of Police, title of case (Warranty to Stop Investigation). Police Considerations in Completion of Narcotics Abuse Crime Cases through Restorative Justice that the suspect is a victim of narcotics abuse, the urine result is positive, the suspect is not involved in a network, an assessment has been carried out, the suspect has never been convicted and the suspect is willing to cooperate with investigators in eradicating narcotics circulation. In resolving cases of narcotics crimes with Restorative Justice against suspects.*

Keywords: Abuse; Crime; Justice; Narcotics; Restorative.

1. Introduction

The circulation of narcotics that occurs in Indonesia is very much contrary to Indonesia's development goals to create complete Indonesian people and a complete Indonesian society that is just, prosperous, and prosperous in an orderly and peaceful manner based on Pancasila and the 1945 Constitution continuous efforts in the field of medicine and health services, including the availability of narcotics as drugs, in addition to developing science. Although narcotics are very useful and necessary for treatment according to standard medicine,

Along with the times, the demands of life encourage the occurrence of various crimes committed by humans. One of the crimes that often occurs today is narcotics abuse which is quite common among the community, even now the distribution of narcotics does not look at who the user is, regardless of the person's position, education and background, ranging from ordinary people to state officials, from the public. adults and even students at student age also fall into abusive narcotics.¹

The Indonesian National Police (Polri) is part of the criminal justice system in Indonesia. Where is the formal framework of the criminal justice system conducted by the Indonesian National Police (Polri) in the form of a pre-trial process or stages (pre-trial process). This process starts from an input, which is then processed (process), then produces an output. Enter into a case starting from the report submitted to the police and or cases found by the police themselves. The process carried out by the National Police will produce output, whether it will be resolved at the National Police or submitted to the District Attorney (JPU) to be submitted to trial. If the case is submitted to the Public Prosecutor, the output from the Police will become input for the Public Prosecutor. And so on,²

Community participation, law enforcement officials who are included in the criminal justice system, namely: the police, prosecutors, judiciary to correctional institutions including lawyers must really work honestly and professionally for the sake of upholding the law. Specifically, in this paper, the author would like to highlight the performance of judges in passing decisions on perpetrators of drug

¹Ageng Fajar Wicaksono, Siti Rodhiyah Dwi Istinah, Andi Aina Ilmih, 2022, The Investigation Process of Children Suspects in Narcotics Crime in National Anti Narcotics Agency (BNN), Law Development Journal, Volume 4 Issue 3, Faculty of Law Unissula, p. 440

² I Made Tambir, 2019, "Restorative Justice Approach in Settlement of Crimes at the Investigative Level," Udayana Master Law Journal (Udayana Master Law Journal) 8, no. 4, p. 549–74.

abuse. Judges as part of the judiciary play a very important role for upholding the rule of law. Not only that, judges are also considered God's representatives in the world for people who want to seek truth and justice.

The ultimate goal of this restorative justice concept is to eliminate stigma and return criminals to normal human beings, perpetrators of crimes can realize their mistakes, so they do not repeat their actions, do not create a sense of revenge because the perpetrators have been forgiven by the victims, victims quickly get compensation, empower the community in overcoming crimes and, reintegration of criminals in society.³

One of the factors in law enforcement is law enforcement officials who are tasked with implementing the applicable legal rules. Providing fair services, providing protection to the public and witnesses, both for the purposes of investigation, prosecution and examination at court hearings, as well as the application of criminal sanctions is an operationalization of law (*ius operatum*) related to law enforcement officials. One of the law enforcement officials is the Attorney General as a public prosecutor. Like the *dominus litis* principle, the public prosecutor has a role as a case controller in handling a criminal case.⁴

Efforts to increase in the field of medicine and health services, the availability of narcotics is needed but if it is misused it will have a harmful impact on users because users will experience dependence which is very detrimental so that strict and thorough control and supervision must be carried out. Therefore, Indonesia provides regulations governing the circulation of narcotics, the use of narcotics for treatment and scientific development, prohibitions without rights to trade, store, control, carry and abuse narcotics.⁵

³Ibnu Suka, Gunarto, Umar Ma'ruf, 2018, The Role and Responsibilities of the National Police as Law Enforcement in Implementing Restorative Justice for Justice and Community Benefits, *Khaira Ummah Law Journal* Vol. 13. No. 1, Unissula

⁴ Rudiana and Bambang Tri Bawono, 2022, The Investigation Process of Drug Criminal Actions by Police Investigators, *Ratio Legislative Journal*, Volume 1 Number 2, Faculty of Law Unissula, p. 146

⁵Dafit Supriyanto Daris Warsito, 2018, The Penal System Against Narcotics Abuse Offenders, *Journal of Daulat Hukum*, Vol. 1.No. 1, Sultan Agung Islamic University Semarang, p. 32

Research on narcotics abuse has been carried out before, such as bunkers;⁶Dewangga;⁷Reza;⁸Suherdin & Maryanto⁹discussing prison sentences for drug abuse. The problem of drug trafficking is getting rampant when there are new types of narcotics circulating in Indonesia. The existence of increasingly varied illegal drugs has made it difficult for the authorities to control their distribution.

2. Research Methods

The research method used is normative juridical research type. This research is descriptive in nature. The legal materials used are secondary legal materials. Procedures and Collection of Legal Materials through library research and Processing and Analysis of legal materials are then analyzed through description using qualitative methods.

3. Result and Discussion

3.1. Police Handling Mechanisms for Narcotics Abuse Crimes through Restorative Justice

Legislative provisions governing narcotics issues have been drafted and enforced, however, crimes related to narcotics have yet to be appeased. In the last cases, many drug dealers and dealers have been caught and given severe sanctions, but other perpetrators seem to have ignored them and even tended to expand their area of operations.¹⁰

The legal problem of narcotics abuse is the most important and serious problem. This problem is certainly not only a national problem and several other countries. however, the legal problems due to drug abuse have become a worldwide problem. Many cases show that the consequences of these problems have caused a lot of losses, both materially and non-materially. While on the other hand, if it is accompanied by illicit narcotics circulation, it will certainly have greater

⁶Bunker, R. J, 2010, Strategic Threat: Narcos and Narcotics Overview. Small Wars and Insurgencies, 21(1), p. 8–29.

⁷Dewangga, W. J, 2014, Law Enforcement of Narcotics Abuse Crimes with Police Officers (Case Study in the Boyolali Legal Area). Journal of Jurisprudence, 4(2).

⁸Reza, F, 2018, Verdict Prison for Drug Abuse. Journal of Sovereign Law, 1(2), Unissula, p. 365–370.

⁹Suherdin, A., & Maryanto, M. 2019, Analysis of Law Enforcement to Drugs Criminal Act in Military Environment (Case Study in Jurisdiction of Military Court II/09 Bandung). Journal of Sovereign Law, 2(4), Unissula, p. 507–512.

¹⁰OC Kaligis, 2002, Drugs and Justice in Indonesia, Criminal Law Reform Through Legislation and Justice, Alumni, Bandung, p.260.

consequences for the benefit of human life and national cultural values which in turn will weaken national security. The large number of narcotics circulation that has spread in all levels of society, including among the younger generation will greatly affect the life of the nation and state in the future.¹¹

The process of handling criminal acts committed by Police Investigators must comply with the principle of legality, namely all Police actions must be based on law. Police investigators are required to carry out their duties in a professional, transparent and accountable manner for every criminal case they handle in order to realize the supremacy of law which reflects legal certainty, a sense of justice and expediency. One of the policies pursued by the Indonesian National Police in handling criminal acts is to enact Police Regulation Number 8 of 2021 concerning Handling of Crimes Based on Restorative Justice.

Police Handling Mechanisms for Narcotics Abuse Crimes Through Restorative Justice is making administrative investigations (initial interrogation, celebrating communication tools, case titles, making police reports, investigative warrants, minutes of examining witnesses, urine tests), suspects submitting application letters to the Regional Police Chief/Kapolres, investigators making investigative administration (requests for assessments, determinations status of evidence, determination of approval for confiscation, Minutes of Investigation of Suspects), implementation of assessment, coordination with Balai POM, results of assessments and recommendations from the Head of Regional Police/Head of Police, title of case (Warranty to Stop Investigation).

3.2. Police Considerations in Settlement of Narcotics Abuse Crime Cases through Restorative Justice in the Legal Area of the Pati City Police

The application of Restorative Justice will lead to a shift in the direction of punishment and the purpose of punishment that is punitive or revengeful by being accountable for every act committed into a settlement that places more emphasis on efforts to heal/restore to its original state before the occurrence of a crime. To realize restorative justice in the framework of law enforcement in Indonesia, the

¹¹Yusuf, VR 2020. Medical and Social Rehabilitation of Narcotics Abuse. Postgraduate Law Masters Study Program, State University of Gorontalo. p. 8

role of society is needed which is not only the object of the law itself but plays an active role in law enforcement.¹²

The concept of Restorative Justice itself has actually been practiced by Indonesian customary law communities for a long time, such as in Papua, Bali, Toraja, Minangkabau, Tau Taa Wana and other communities that still hold strong culture. If a criminal act occurs by someone, the dispute resolution is resolved in the indigenous community internally without involving state apparatus. The measure of justice is not based on retributive justice in the form of revenge (an eye for an eye) or imprisonment, but based on conviction and forgiveness (restorative justice). Even though general criminal acts handled by the community are contrary to positive law, it is proven that this mechanism has succeeded in maintaining harmony in society. The involvement of state law enforcement officials often complicates and exacerbates the problem.¹³

Conventions of countries in the world reflect a new paradigm to avoid criminal justice. Restorative Justice (hereinafter translated into restorative justice) is a popular alternative in various parts of the world for handling criminal offenders who have problems with the law because it offers a comprehensive and effective solution.

The basis of the Restorative Justice perspective is that the concept of crime is an act that violates first and foremost the rights of individuals (ie victims of crime); in addition to violating society, the state and the interests of the violators themselves. So, every time a criminal law violation occurs, there are actually four related interests, namely the person who violates their rights (crime victim), society, the state, and the offender himself. People whose rights have been violated (victims of crime) are the first to have an interest. Therefore, the criminal justice system must access these four interests by placing the interests of victims of crime as the main interest.¹⁴

At present Restorative Justice is really needed in solving various types of criminal acts, especially certain crimes which if handled retributively do not provide significant benefits, but instead cause new losses for both victims and the state, including in this case, namely narcotics crimes in particular non-dealer users.

¹²Satjipto Rahardjo, 2000, *Law Studies*, Citra Aditya Bakti, Bandung, p. 181

¹³Dewi, DS. and Fatahillah A. *Gratitude*. 2011. *Penal Mediation: Application of Restorative Justice in Indonesian Juvenile Courts*. Indie Publishing. Depok, p. 4

¹⁴Rena, Yulia, 2010, *Victimology of Legal Protection for Crime Victims*, Graha Ilmu. Bandung, p. 190

According to Adrianus Meliala, Restorative Justice is urgently needed at this time, at least because of 4 factors, namely:¹⁵

1. Criminalization brings further problems for the families of the perpetrators of crimes
2. Criminalizing the perpetrators of crimes does not relieve or heal victims
3. The formal process of the criminal justice system is too long, expensive and uncertain
4. Correctional as a continuation of punishment also has the potential to contribute nothing to the future of convicts and the relationship between victims and victims.

In the Criminal Procedure Code, it has been explained in the field of law development, it is intended that people can live up to their rights and obligations and can be achieved and improved in fostering the attitude of law enforcement officers in accordance with their respective functions and authorities towards upright and stable law, justice and legal protection which is the protector to all human dignity, order and legal certainty.¹⁶Therefore specialization, differentiation, compartmentalization and the like are required in the implementation and division of tasks between investigators (police), public prosecutors (prosecutors) and judges in implementing law enforcement.

The authority of the Police in determining which cases can be resolved using this concept is indeed a question that is quite risky to answer. Because in terms of cases that can and cannot, everything is handed over to the Police. This condition is full of fraud and abuse of authority that can be carried out based on the position held. For this reason, in order to avoid stigma and labeling like this, the police must always include every element that supports the settlement of cases by prioritizing this non-penal concept.

Police Considerations in Completion of Narcotics Abuse Criminal Cases through Restorative Justice that the suspect is a victim of narcotics abuse, the urine result is positive, the suspect is not involved in a network, an assessment has been

¹⁵Kaligis, OC, 2012, *Anthology of Legal Studies*, Volume 7, Alumni, Bandung. p. 350

¹⁶P. Djoko, 2020, *The Existence of Prosecutors in Society*. Script Hall-Yudhistira, Jakarta

carried out, the suspect has never been convicted and the suspect is willing to cooperate with investigators in eradicating narcotics circulation. In resolving narcotics crime cases with Restorative Justice against suspects, investigators should continue to consider and pay attention to the requirements in Police Regulation Number 8 of 2021 so that the handling of narcotics crimes based on restorative justice can be realized.

4. Conclusion

Police Considerations in Completion of Narcotics Abuse Crime Cases through Restorative Justice that the suspect is a victim of narcotics abuse, the urine result is positive, the suspect is not involved in a network, an assessment has been carried out, the suspect has never been convicted and the suspect is willing to cooperate with investigators in eradicating narcotics circulation. In resolving narcotics crime cases with Restorative Justice against suspects, investigators should continue to consider and pay attention to the requirements in Police Regulation Number 8 of 2021 so that the handling of narcotics crimes based on restorative justice can be realized.

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