

## Termination of Prosecution of Drug Addicts Cases Through Rehabilitation with a Restorative Justice Approach (Case Study of The Sumbawa District Prosecutor's Office)

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**Abstract.** *The restorative justice approach in drug cases, especially for addicts, aims to shift case handling from conventional criminal justice mechanisms to more humanistic and recovery-oriented solutions. The purpose of this study is to implement the termination of prosecution of Drug Addicts with a restorative justice approach, to study and analyze the obstacles and solutions in implementing the termination of prosecution of Drug Addicts with a restorative justice approach. This legal research uses empirical legal research methods. Empirical legal research is legal research using legal principles and principles in reviewing, viewing, and analyzing problems in research, in addition to reviewing the implementation of law in practice. The implementation of the termination of prosecution of drug addicts based on restorative justice is a progressive step that shifts the focus from criminalization to rehabilitation for the sake of restoring addicts as victims, not criminals. However, at the regional level such as the Sumbawa District Attorney's Office, the implementation of this approach is still hampered by limited understanding of prosecutors, minimal rehabilitation facilities, weak coordination between agencies, and the absence of adequate technical regulations. Other obstacles include community resistance, limited budget, and difficulty in distinguishing addicts from dealers. To optimize it, intensive training, institutional synergy, equal distribution of facilities, preparation of technical guidelines, and continuous evaluation are needed so that the restorative justice approach can truly be a fair, humane, and effective law enforcement solution.*

**Keywords:** Addicts; Justice; Narcotics; Restorative.

## 1. Introduction

Indonesia is a country based on law (*Rechtstaat*), as stated in Article 1 paragraph (3) of the Third Amendment to the 1945 Constitution of the Republic of Indonesia (UUD) which confirms that the Republic of Indonesia is a country based on law. The source of law for other implementing regulations is in accordance with Article 7 paragraph (1) of Law Number 12 of 2011 concerning the Formation of Legislation. The Constitution of the Republic of Indonesia in Article 1 concerning the State of Indonesia is a unitary state in the form of a republic, sovereignty lies in the hands of the people and the State of Indonesia is a state based on law.<sup>1</sup>

Distribution of narcotics and dangerous drugs (narcotics)<sup>2</sup> in Indonesia in recent years has become a serious problem and has reached a state of concern and become a national problem. Victims of drug abuse have spread so much that they exceed the boundaries of social strata, age, gender. The rampant circulation of narcotics in society and the magnitude of the negative impacts and losses, both economic and social losses caused by it, have opened the awareness of various groups to mobilize the war on narcotics and other illegal drugs (narcotics).

One form of crime that is classified as a special crime that often occurs in society is drug abuse. Drug abuse is currently increasing day by day. Action against drug crimes in Indonesia reached 15,455 cases in the first semester of 2022. Even data from the National Police Criminal Investigation Center shows that drug cases are the second highest crime after aggravated theft or theft. However, the impact of drug crimes is more dangerous.<sup>3</sup>

Narcotics were initially only used for medical purposes. The first type of narcotics used was Opium. In line with the development of the era, narcotics are increasingly being abused by the community. Narcotics can also make huge profits by selling these drugs illegally to various countries. So this is very concerning for both national and international communities. Narcotics if abused will have very dangerous impacts on users, dealers and so on. Narcotics are often used in the medical world. These drugs are usually used to treat patients who experience pain, excessive pain, and some of these drugs are also used for patients undergoing surgery or as anesthetics.

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<sup>1</sup>Simamora, J. Interpretation of the Meaning of the Legal State in the Perspective of the 1945 Constitution of the Republic of Indonesia. *Journal of Legal Dynamics*, Vol. 14, No. 3, 2014, pp. 547-561

<sup>2</sup>Oktaviani and Yumitro, "The Threat of Drugs in Indonesia in the Era of Globalization", *Jurnal Education And Development*, vol. 10, no. 2 pp. 137-143

<sup>3</sup>Prosecutor's Office, 2021, Guidelines No. 18 of 2021 Concerning Settlement of Handling of Narcotics Abuse Criminal Cases Through Rehabilitation with a Restorative Justice Approach as an Implementation of the *Dominus Litis* Principle, Prosecutor. p.1

Narcotics that are misused or used not in accordance with treatment standards will have very detrimental effects on individuals and society, and can even cause greater danger to the life and cultural values of the nation which will ultimately weaken national resilience.

The application of restorative justice first began in 1974 in Ontario through a reconciliation program between victims and perpetrators which then developed in several countries including the United States and New Zealand. Restorative Justice can be defined as a systematic response to unlawful acts by focusing on healing victims, perpetrators and the community caused by the crime.<sup>4</sup> Thus, Restorative Justice treats unlawful acts as violations of a relationship while retributive justice views crimes as violations of the state. In this case, restorative resolution emphasizes dialogue between the victim and the perpetrator plus a neutral facilitator, which can involve or not involve law enforcement officers.

## **2. Research Methods**

In an effort to solve the problems that have been formulated, a clear and systematic research method is needed. In this regard, there are several stages that need to be determined, including: This legal research uses empirical legal research methods. Empirical legal research is legal research using legal principles and principles in reviewing, viewing, and analyzing problems in research, in addition to reviewing the implementation of law in practice.<sup>5</sup> The empirical research method is a combination of doctrinal legal research methods and empirical legal research methods, so what is done by the researcher is a document study accompanied by a field study. The document study in this study is a literature study using laws and regulations.

## **3. Results and Discussion**

### **3.1. Implementation of Termination of Prosecution of Drug Addicts with a Restorative Justice Approach**

Narcotics crimes are different from other crimes, both in terms of evidence and how to disclose them. Because of this difference, narcotics crimes have their own procedural law, where the difference is very stark when handling it with other general crimes such as murder, assault and so on. Since the enactment of Law Number 9 of 1974 and up to Law Number 35 of 2009 concerning Narcotics, there have been several changes in the regulation of narcotics problems, both in terms of material and formal. In terms of material, there are several changes in the classification of narcotics which are increasingly complex following the

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<sup>4</sup>Yahya Sultoni, Development of Restorative Justice Principles for Children in the Criminal Law Realm, Article of Wisnuwardhana University of Malang, 2015, p. 121.

<sup>5</sup>Ronny Hanitijo Soemitro, Legal Research Methodology and Jurimetrics, Ghalia Indonesia, Jakarta, 1990, p. 33.

development of the times, while changes in terms of formality are in the scope of procedural law and handling of rehabilitation for drug addicts, all of which are nothing more or less, solely to meet the legal needs of society which is always dynamic.

Narcotics or often referred to as drugs are a type of substance. This narcotic substance is a substance that has certain characteristics. Narcotics are substances that can cause certain effects for those who use it by inserting it into the body. These effects are in the form of anesthesia, loss of pain, stimulation of enthusiasm and hallucinations or the emergence of fantasies. These properties are known and found in the medical world with the aim of being used for treatment and human interests, such as in the field of surgery, relieving pain and others. However, it was later discovered that narcotic substances have addictive power that can cause the user to depend on the narcotic drugs for their lives. This can be avoided if its use is regulated medically and pharmacologically. For this reason, the use of narcotics requires supervision and control.

Related to the above offense is the policy of criminalization against the act of using narcotics without rights. The policy of using criminal sanctions is one way to overcome criminal acts. This is related to the purpose of giving criminal penalties which aims to:

- 1) Preventing criminal acts by enforcing legal norms of community protection.
- 2) Conducting corrections to convicts and thus society. Making people good and useful and able to live
- 3) Resolving conflicts caused by criminal acts, restoring balance and bringing a sense of peace to society.
- 4) Exonerate the convict from guilt.

The purpose of criminal punishment in narcotics user crimes as regulated in Article 127 of the Narcotics Law must be carried out selectively regarding whether the perpetrator is a user or a dealer. This selective action must also be applied in Article 127 of the Narcotics Law which imposes criminal sanctions for groups I to III as victims, so every abuser has the right to obtain medical and social rehabilitation rights. The application of medical and social rehabilitation as regulated in Article 127 paragraph (3) of the Narcotics Law aims to:

- 1) The purpose of punishment is for prevention
- 2) This prevention is not the final aim but is a means to achieve a higher goal, namely social welfare.
- 3) Only violations of the law can be blamed on the perpetrator of the crime in the form of intent or negligence as a condition for imposing a criminal penalty.

In the normative view, namely Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics, drug abusers or drug addicts are categorized as criminal acts. In fact, it is known that drug abusers for themselves and drug addicts are only victims of their own actions. In essence, drug abusers for themselves and drug addicts are individuals who use and abuse drugs for themselves. So drug addicts should be positioned as victims, not as perpetrators of criminal acts who are ultimately subject to criminal sanctions. In other words, individuals who abuse drugs for themselves will automatically become victims of drug abuse. This condition in the typology of victims is also referred to as self-victimizing victims, namely those who become victims because of the crimes they commit themselves.<sup>6</sup>Or, according to Romli Atmasasmita, a dual state, namely, the relationship between the victim and the perpetrator is single or one, in understanding that the perpetrator is the victim and the victim is the user or drug user.<sup>7</sup>

The idea of restorative justice first emerged among criminal law experts as a reaction to the negative impacts of the application of criminal law (sanctions) with its repressive and coercive nature.<sup>13</sup> This is evident from Louk Hulsman's statement that the criminal law system is built on the idea that "criminal law must cause misery". According to Hulsman, such a thought is very dangerous.<sup>8</sup>Therefore, Hulsman put forward an idea to abolish the criminal law system which was considered to cause more suffering than good, and replace it with other methods which were considered better.

The concept of restorative justice in Indonesia is still relatively new. According to Mahfud MD, restorative justice is an extension of the theory of justice with a different approach. In the concept, criminal acts are seen as a social disease that must be cured, not just as an act that violates the rule of law. Here, criminal acts are seen as the ultimum remedium. In other words, children who are proven guilty of committing a criminal act are given priority to be given sanctions in the form of actions such as returning to their parents or undergoing education, healing and training.<sup>9</sup>

Many law enforcement officers currently have a mindset that focuses on the understanding that every criminal case must remain within the realm of criminalization (litigation path, even though these cases are criminal acts with relatively small losses or minor crimes. This is legitimate in legal positivism,

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<sup>6</sup>C. Maya Indah S., *Victim Protection (A Victimology and Criminology Perspective)*, Jakarta: Kencana Prenadamedia Group, 2014, p. 36

<sup>7</sup>Romli Atmasasmita, *Problems of Compensation for Victims of Criminal Acts*, Jakarta: National Legal Development Agency, Department of Justice, 1992, p. 22.

<sup>8</sup>LHC. Hulsman, *Goodbye Criminal Law Towards Self-Regulation*, translated by Wonosusanto, Surakarta Forum: Criminal Law Studies, 1998, p. 67.

<sup>9</sup>Luthy Febrika Nola, "Restorative Justice for Juvenile Crimes", *Brief Legal Information*, Vol. VI, No. 17/I/P3DI/September/2014, 2014, p. 2.

provided that the act is clearly in the law (the principle of legality is fulfilled) and in accordance with the principle of equality before the law.

The law enforcement process through a restorative justice approach in resolving criminal cases carried out by the prosecutor's office refers to PERJA No. 15 of 2020, the definition of restorative justice is the resolution of criminal cases by involving the perpetrator, victim, family of the perpetrator/victim, and other related parties to jointly seek a fair resolution by emphasizing restoration to the original state, and not retaliation. Termination of prosecution based on restorative justice is carried out with the principles of justice, public interest, proportionality, criminal as a last resort, fast, simple and low cost. The restorative justice policy through PERJA No. 15 of 2020 which was enacted on July 22, 2020 is expected to be able to resolve minor criminal cases (tipiring) without a green shirt. Since the issuance of the PERJA, 300 cases have been terminated by prosecutors throughout the country. The issuance of the PERJA was to restore the original condition before the "damage" caused by the behavior of a person (suspect). The requirements for a person who is "entitled" to receive restorative justice are: 1) a crime that has been committed for the first time; 2) losses below Rp 2.5 million; 3) an agreement between the perpetrator and the victim.

This PERJA also tries to minimize the overcapacity of prisons which has become a scourge for prisons in Indonesia. In addition, the contents of this PERJA are contained to minimize the deviation of prosecutorial power and restore social conditions directly in the community. This is also one of the policies in responding to public concerns about the law being sharp downwards, but blunt upwards which has so far seemed to be the norm.

This regulation is one of Attorney General Burhanudin's innovations to provide legal certainty for ordinary people. This policy was echoed by Burhanudin at the international level. In an event themed "integrated approaches to challenges facing the criminal justice system" Burhanudin said in his presentation that the restorative justice method in Indonesian criminal justice is an integrated approach from investigation, inquiry, prosecution, to court rulings. Burhanudin said that Restorative Justice can shorten the lengthy trial process and resolve the issue of overcapacity of prisoners in correctional institutions. Seeing these achievements, the pillars of reform in the Attorney General's Office have been re-established. However, community participation is needed to oversee the return of the dignity of the prosecutor's office. The regulation of restorative justice has so far been regulated by the Chief of Police Circular No. SE/8/VII/2018 of 2018 concerning the Implementation of Restorative Justice in the Settlement of Criminal Cases; Chief of Police Regulation No. 6 of 2019 concerning Criminal Investigation; Prosecutor's Regulation No. 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice; and Decree of the Director General of

the General Court of the Supreme Court of the Republic of Indonesia No.1691/DJU/SK/PS.00/12/2020 concerning the Implementation of Guidelines for the Implementation of Restorative Justice.

In the Circular of the Chief of Police No. 8 of 2018 concerning the Implementation of Restorative Justice in the Settlement of Criminal Cases, it is regulated that the principle of restorative justice cannot be interpreted as a method of peaceful termination of cases, but more broadly on fulfilling the sense of justice of all parties involved in criminal cases through efforts involving victims, perpetrators, and the local community as well as investigators/investigators as mediators. For case resolution, the Circular of the Chief of Police states, one of which is carried out in the form of a peace agreement and the revocation of the victim's right to sue, it is necessary to request a judge's determination through the Public Prosecutor to revoke the authority to sue from the victim and the public prosecutor. However, the understanding of restorative justice in the Circular of the Chief of Police was changed through the Regulation of the Chief of Police No. 6 of 2019, where the community is not part of the case resolution.

In addition, the Joint Decree of the Chief Justice, Attorney General, Chief of Police, Minister of Law and Human Rights, Minister of Social Affairs, and Minister of State for Women's Empowerment and Child Protection Number 166A/KMA/SKB/X11/2009, 148 A/A/JA/12/2009, B/45/X11/2009, M.HH-08 HM.03.02 of 2009, 10/PRS-s/KPTS/2009, 02/Men.PP and PA/XII/2009 Handling of Children in Conflict with the Law. Joint Memorandum of Understanding of the Chief Justice, Minister of Law and Human Rights, Attorney General, Chief of Police Number 131/KMA/SKB/X/2012, Number M.HH-07.HM.03.02 of 2012, Number KEP06/E/EJP/10/2012, Number B/39/X/2012 dated 17 October 2012 concerning the Implementation of the Application of Adjustments to the Limits of Minor Crimes and the Amount of Fines, Fast Examination Procedures and the Application of Restorative Justice. Joint Regulation of the Chief Justice, Minister of Law and Human Rights, Minister of Health, Minister of Social Affairs, Attorney General, Chief of Police, Head of the National Narcotics Agency Number 01/PB/MA/111/2014, Number 03 of 2014, Number 11 of 2014, Number 03 of 2014 Number Per-005/A/JA/03/2014 Number 1 of 2014, Number Perber/01/111/2014/BNN concerning Handling of Narcotics Abusers and Victims of Narcotics Abuse into Rehabilitation Institutions. This decision defines justice.

An example of a case that occurred in the jurisdiction of the Sumbawa District Attorney's Office, defendant WS on Thursday, June 13, 2024 at around 18.00 WITA, or at least at another time in June 2024 or at least in 2024, took place at the defendant's house located in Nusa Bakti Hamlet RT 07 RW 03 Lunyuk Ode Village, Lunyuk District, Sumbawa Regency or at least included in the jurisdiction of the Sumbawa Besar District Court which has the authority to try, who without



rights or against the law possesses, stores, controls, or provides Class I Narcotics that are not plants, which is done in the following manner:

That initially on Thursday, June 13, 2024 at around 17.30 WITA, witness AS and witness HSP received information from the public that there was a strong suspicion that someone had and controlled narcotics at the defendant's house located in Nusa Bakti Hamlet RT 07 RW 03, Lunyuk Ode Village, Lunyuk District, Sumbawa Regency. Then witness AS reported the information to the Head of Criminal Investigation Unit of the Lunyuk Police, then the Head of Criminal Investigation Unit of the Lunyuk Police contacted the Lunyuk Police Chief. Furthermore, the Lunyuk Police Chief ordered witness AS and witness HSP and other Lunyuk Police colleagues to conduct an investigation and surveillance around the defendant's house. Then at 18.00 WITA, witness AS and witness HSP saw the defendant in his house. Furthermore, witness AS and witness HSP and other Lunyuk Police colleagues managed to secure and arrest the defendant who was sleeping in the defendant's house at that time and told the defendant to stay where he was and not move. Furthermore, witnessed by the general witness, namely witness Gede Arta as the Head of Nusa Bakti Hamlet, a body search was carried out on the defendant and 1 (one) gas lighter was found, then witness AS and witness HSP conducted a search in the defendant's room and 1 (one) packet of methamphetamine was found which was stored in a cellphone box, precisely under the cupboard and 1 (one) plastic scoop. Then a search was carried out in the bathroom of the defendant's house and 1 (one) smoking device/bong was found. Then the defendant admitted ownership of the evidence.

That the evidence in the form of 1 packet of methamphetamine with a net weight of 0.21 grams was confiscated to be tested in the laboratory at the Mataram Food and Drug Monitoring Center in accordance with the minutes of the confiscation of evidence dated June 19, 2024, signed by I Komang Susial Mika R along with 2 witnesses, namely the defendant and RD.

That based on the Report on the Results of the Drug and Narcotics Laboratory Testing from the Mataram Drug and Food Supervisory Center, Number: LHU.117.K.05.16.24.0407 dated June 24, 2024 signed by I Putu Ngurah Apri Susilawan, S.Si., M.Si as the Technical Manager of the Teranakoko Laboratory at the Mataram POM Center, has conducted tests on transparent white crystals in transparent plastic clip packaging in a brown envelope with a seal tied with white thread and labeled as evidence, with the conclusion "The sample contains METHAMPHETAMINE, including Class I Narcotics".

That based on the Letter of the Head of Pegadaian Branch (Persero) - Sumbawa Besar Number: 194/11957.00/2024 dated August 12, 2024 regarding the results of the Weighing of Evidence and obtained a net weight of 1 (one) packet of methamphetamine narcotics, namely 0.7 grams. That the defendant's actions,



namely without rights or against the law, possessing, storing, controlling, or providing Class I Narcotics not plants, were carried out without permission from the Minister of Health or an Authorized Official.

Furthermore, the theory of utility in Radbruch's view is inseparable from the idea of balance between legal values. In this case, justice should not sacrifice utility, and vice versa. The restorative justice approach provides space for the integration of these two values: the perpetrator is not released without responsibility, but is directed to be socially responsible through rehabilitation and supervision, which ultimately results in benefits for the perpetrator and society. This reflects the harmony between justice and utility as described in Radbruch's thinking.

The benefits of law according to Radbruch must also be seen from a long-term perspective. In terms of stopping the prosecution of addicts, if the perpetrator is successfully rehabilitated and does not return to using narcotics, then this provides a preventive effect that is much stronger than just the deterrent effect of punishment. The benefits of law here are not only individual, but also social and national, because it can reduce the recidivism rate, reduce the burden on the justice system, and improve the quality of life of the community.

Thus, the implementation of the termination of prosecution of drug addicts based on restorative justice reflects the implementation of Gustav Radbruch's theory of legal benefits. The law is not only a tool of punishment, but also a means of social empowerment and humanitarian recovery. This shows that the purpose of the law is not only to maintain order through sanctions, but also to bring about social change that is beneficial to all levels of society.

### **3.2. Obstacles and Solutions in the Implementation of Termination of Prosecution of Drug Addicts Using a Restorative Justice Approach**

Discussion of Termination of Prosecution based on restorative justice is essentially an effort to renew or reconstruct the law contained in Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia as amended by Law Number 11 of 2021 concerning the Attorney General's Office of the Republic of Indonesia in order to formulate Provisions for Termination Based on Restorative Justice.

The focus that is used as the basis for discussion is in points 3 and 4, namely the interests of quality and fair law enforcement and harmonization of laws and regulations. In the third point, the interests of quality and fair law enforcement must be based on legal certainty (*rechtmatigheids*) and benefits (*doelmatigheids*) and that is also in line with the fourth point, namely that with the harmonization of laws and regulations, laws and regulations can be avoided from conflicting and overlapping so that they can provide legal certainty.

In terms of legal certainty, it consists of two words, namely "certainty" and "law". Certainty is a matter (condition) that is certain, provisions or provisions.<sup>10</sup>Meanwhile, what is meant by law is a collection of regulations or rules in a communal life, all regulations regarding behavior that apply in a communal life whose implementation can be enforced with sanctions.<sup>11</sup>According to Van Apeldoorn, legal certainty can also mean something that can be determined by law in concrete matters.<sup>12</sup>

In its implementation, Termination of prosecution of drug addicts with a restorative justice approach at the Sumbawa District Attorney's Office has various fairly complex obstacles. One of the main obstacles that is often faced is the limited understanding of law enforcement officers regarding the concept of restorative justice itself. Although there are regulations and guidelines from the Attorney General's Office such as the Attorney General's Guidelines Number 18 of 2021, in practice, not all prosecutors have a deep understanding and the same interpretation regarding its application, especially in narcotics cases.

This lack of understanding leads to hesitation in deciding to stop prosecution. Prosecutors tend to be cautious because they are worried that the decision will set a bad precedent or be considered too lenient towards drug offenders. In fact, in many cases, the perpetrators are addicts who need rehabilitation, not imprisonment. However, concerns about public opinion or professional risks often become obstacles in making decisions based on this humanistic approach.

In addition, the implementation of restorative justice-based prosecution termination is also hampered by the limited availability of adequate rehabilitation facilities in areas such as Sumbawa. Not all areas have rehabilitation centers that can handle drug addicts with quality services that meet standards. This makes it difficult for prosecutors to place addicts to undergo a recovery process according to legal provisions.

Lack of coordination between related institutions is also a serious obstacle. The process of terminating prosecution through restorative justice requires synergy between the Prosecutor's Office, Police, BNNK, Health Service, and rehabilitation institutions. However, in practice, cooperation between these institutions is still sectoral and has not been well integrated, so that the assessment process, referrals, and monitoring of rehabilitation results are not optimal.

Other administrative obstacles are also seen from the lack of detailed technical regulations or implementation guidelines at the regional level. Although there

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<sup>10</sup>CST Kansil, Christine ST Kansil, Engelien R, Palandeng and Godlieb N Mamahit, *Dictionary of Legal Terms*, Jakarta: Jala Permata Aksara, 2009, p. 385

<sup>11</sup>Sudikno Mertokusumo in Salim HS, *Development of Theory in Legal Science*, Jakarta: RajaGrafindo Persada, 2010, p. 24.

<sup>12</sup>Van Apeldoorn, *Introduction to Legal Science*, Jakarta: Pradnya Paramita, 1990, pp. 24-25.

are guidelines from the center, their implementation still requires interpretation that is adjusted to local conditions. This often makes officers in the field confused in implementing procedures that are in accordance with the principles of restorative justice properly.

Another factor is resistance from the community or victims who have not fully understood or accepted the concept of restorative justice. There is a general view that drug crimes must be punished as severely as possible. This view sometimes hinders the process of peace agreements or mediation which is an important part of implementing restorative justice.

On the other hand, not all drug offenders in Sumbawa can be categorized as pure addicts. Sometimes there is difficulty in distinguishing between addicts and dealers who disguise themselves as users. This requires prosecutors to be careful and requires comprehensive integrated assessment results from a team of experts to ensure that the perpetrators are indeed worthy of restorative justice.

However, integrated assessment also has its own obstacles. The availability of assessment teams in the regions is still limited and the tight schedule makes the assessment process unable to be carried out quickly and efficiently. As a result, the process of terminating the prosecution can be delayed for a long time and lose the momentum of recovery for the perpetrator.

Structurally, the problem is also seen from the absence of a special unit or prosecutor permanently assigned to handle cases with a restorative justice approach. As a result, case handling is still generalist and unfocused, so that the results are not optimal and tend to be inconsistent between one case and another.

Another significant obstacle is funding. The restorative justice approach, especially in the case of drug addicts, requires costs for assessment, mediation, and rehabilitation. Unfortunately, not all prosecutors have a special budget to support these activities, and not all perpetrators or their families are able to bear the costs of the process themselves.

To overcome these obstacles, strategic steps are needed that are cross-sectoral. The first solution that can be applied is to increase the capacity and training of prosecutors regarding restorative justice, especially in terms of drug abuse. With ongoing training, it is hoped that prosecutors will be able to fully understand the principles and objectives of this approach.

In addition, it is important to strengthen cross-sector cooperation between the prosecutor's office and related agencies, such as the BNN, the Health Service, and rehabilitation institutions, through the formation of integrated teams in the regions. This team can function to conduct assessments, provide referrals, and monitor the rehabilitation process comprehensively.

The central government must also pay attention to the distribution of rehabilitation facilities evenly to areas such as Sumbawa. The availability of easily accessible and quality rehabilitation places will be a major supporter of the success of the restorative justice approach.

Another solution is to prepare more technical and detailed juklak and juknis at the regional level based on guidelines from the center. This will make it easier for law enforcement officers to apply restorative justice consistently and in accordance with local conditions.

In addition to the institutional side, education for the community also needs to be improved. Socialization about the importance of rehabilitation for drug addicts and the positive impact of restorative justice needs to be done so that the community does not only have a repressive view of drug offenders.

Local governments can also play a role by allocating funds in the APBD to support restorative justice programs. With the regional budget, prosecutors and other agencies will have more freedom in implementing recovery programs for drug addicts.

In addition to budget support, supervision of the implementation of rehabilitation also needs to be improved. The success of the program is not only measured by the termination of prosecution, but also by the actual recovery of addicts and their success in returning to function in society.

It is also important to establish a communication forum between law enforcement officers, the perpetrator's family, the victim (if any), and civil society to discuss and assess the extent to which the implementation of restorative justice is running. This forum can be a means of social control as well as a place to improve weaknesses in implementation.

The prosecutor's office can also conduct regular evaluations of the implementation of restorative justice-based prosecution termination. This evaluation is important to identify obstacles that still occur and formulate steps for improvement.

Finally, political commitment and institutional courage are needed from the leadership of the Prosecutor's Office to seriously encourage and oversee the implementation of the restorative justice approach. Without such commitment, the various policies that have been made will only stop at the level of discourse and will not have a real impact on the ground.

By overcoming these various obstacles and implementing appropriate solutions, the termination of prosecution of drug addicts with a restorative justice approach at the Sumbawa District Attorney's Office can be an example of a more humane, effective legal practice that is in line with the spirit of social recovery.

The restorative justice approach to drug addicts in the Netherlands is based on the principle that drug users are victims of a health condition, not criminals who must be punished repressively.<sup>13</sup> The country has long implemented a policy of decriminalization of the use of light drugs, especially marijuana, with an emphasis on harm reduction. Restorative justice is implemented within this policy framework with the aim of promoting recovery, not imprisonment, through integrated social and health interventions, including rehabilitation, counseling, and mediation.

In practice, drug abusers who are not involved in illicit trafficking or other crimes are given alternative punishments in the form of rehabilitation and treatment programs, supervised by health authorities and social institutions. The restorative justice process involves the perpetrator, family, and community, where the main focus is on restoring social relationships, personal responsibility, and reducing the risk of recurrent addiction. This approach allows addicts to remain integrated into society with full support from the health and social protection systems.

The Dutch government works with local institutions, including the police, prosecutors and rehabilitation centres, to ensure that minor drug cases do not end up in the full criminal justice system. This system has proven successful in reducing imprisonment rates, reducing the use of serious drugs and creating a fairer and more effective system. The restorative justice approach in the Netherlands reflects a drug policy based on the principles of proportionality, humanity and social sustainability.

What Indonesia can adopt from the restorative justice approach to drug addicts in the Netherlands is the shift in the legal paradigm from a repressive approach to a rehabilitative approach. Indonesia needs to review its legal policies to focus more on the recovery of addicts, not just on punishment. The Dutch experience shows that addicts who are directed to rehabilitation early on, without having to go through the court process, actually have a greater chance of recovering and not returning to using drugs. This approach is in line with the spirit of the Indonesian Narcotics Law which recognizes rehabilitation as a form of handling addicts.

In addition, Indonesia can adopt the cross-sector integration system implemented by the Netherlands, where law enforcement officers, medical personnel, social institutions, and the community work together in handling drug addict cases. This collaboration strengthens the assessment process and policy determination that is more personal and targeted. In Indonesian regulations, an

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<sup>13</sup>Hasanah, Ulfatul, and Tazkiatul Aulia. "Comparative Study: Restorative Justice in Indonesia and the Netherlands as an Alternative for Resolving Criminal Cases." *SAPIENTIA ET VIRTUS* 9, no. 2 (2024): pp. 415-429.

integrated coordination system needs to be formed between the prosecutor's office, police, BNN, hospitals, and NGOs so that the resolution of drug abuse cases based on restorative justice can be more effective and measurable.

The implementation of restorative justice in the future also requires education and changes in the way society views drug addicts. Like the Netherlands, which has succeeded in forming a more inclusive legal culture, Indonesia needs to carry out continuous social campaigns to eliminate the stigma against addicts. By creating a supportive social environment and legal regulations that support recovery, Indonesia can create a drug handling system that is more humane, efficient, and has long-term impacts.

#### 4. Conclusion

The implementation of the termination of prosecution of drug addicts with a restorative justice approach is an effort to shift the handling of addicts from the criminal system to rehabilitation which is more oriented towards recovery. This approach emerged as a response to the ineffectiveness of criminalization in resolving addiction problems, and is based on the view that addicts are victims who need medical and social care, not imprisonment. However, its implementation still faces challenges such as overlapping articles, the lack of clear boundaries between users and dealers, and the less than optimal implementation at the legal practice level. In order to strengthen this approach, various law enforcement agencies and related agencies have formulated a joint policy aimed at aligning the handling system for drug addicts through a restorative justice mechanism, in order to reduce the overcapacity of correctional institutions, encourage social recovery, and ensure fair and proportional legal protection for abusers.

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