

## TREATMENT FORMULATION FOR FUTURE VICTIMS OF NARCOTICS ABUSE

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### ABSTRACT

Extraordinary crimes are crimes against conscience, against human values, and capable of threatening world peace, security, and prosperity. The concept of this crime is based on the concept of international law and then modified according to the needs and formulation of crimes that exist in Indonesia into human rights crimes, narcotics crimes, and crimes against child sexuality. In the United Nations Convention Single Convention on Narcotic Drugs, 1961, and also in the United Nations Convention against illicit traffic in narcotics and psychotropic drugs in 1988, both conventions state that narcotics crime is an extraordinary crime. Against narcotics crimes, the Indonesian government carries out the function of criminal policy through the means of penalization in Law Number 35 of 2009 concerning Narcotics which applies criminal sanctions imposed for drug abuse, namely imprisonment, fines, and even the death penalty. For Narcotics addicts and Narcotics Abuse Victims, it is the person who must be helped, the help here is the rehabilitation process itself, namely medical rehabilitation and social rehabilitation. The application of an integrated assessment towards the determination of rehabilitation is alternative law enforcement with a restorative justice pattern against abusers, victims, and narcotics addicts. This research is legal research using a normative juridical approach, the data used are primary data and secondary data which are analyzed using quantitative analysis.

### KEY WORDS

Formulation of assessment, rehabilitation, narcotics abusers.

In the concept of criminal law, crimes that are included in extraordinary crimes are crimes that are adopted based on the concept of international law, in the Rome Statute 1998, it is stated that crimes that are included as extraordinary are only genocide, crimes against humanity (crime against humanity). Crimes of terrorism, corruption, narcotics, and sexual crimes against children should be included in crimes that are extraordinary (Jha, 2014). This is based on the crime of terrorism, corruption, narcotics, and sexual crimes against children have serious aspects when viewed from the form of the crime and also the victims it causes, for these two things, the crime must be carried out in a planned, systematic and organized manner. In addition, the crime had a heavy toll on a select few groups (Siswadi, 2015).

Extraordinary crime is a crime that describes the existence of a crime that is cruel, contrary to humanity and has a broad impact on the crime, while the standard definition of the extraordinary crime is that the crime is contrary to conscience, contrary to human values and capable of threatening peace, world security and welfare (Muladi, 2011). The concept of extraordinary crime in international law is then modified according to the needs and formulations of crimes in Indonesia, in the concept of Indonesian law, extraordinary crimes are determined in the form of human rights crimes, narcotics crimes, and crimes against children. The most important thing is that for crimes that are included in the category of extraordinary crimes, extraordinary prevention measures are needed as well, meaning that unconventional preventive measures are needed in preventing crimes (Muladi, 2011).

Whereas efforts to prevent crime by taking extraordinary steps, including involving penal and non-penal facilities, the function of this criminal policy can be seen to answer what is meant by a crime and to formulate policies for dealing with criminal acts against criminals arrange to prevent the occurrence of crime (Arif, 2008). About the prevention of narcotics

crime as an extraordinary crime, through the United Nations Convention Single Convention on Narcotic Drugs, 1961 and also in the United Nations Convention against illicit traffic in narcotics and psychotropic drugs in 1988, both conventions state that narcotics crime is an extraordinary crime. Whereas the two conventions also regulate aspects of abuse, production, marketing, trade, transportation, possession, or purchase of illegal narcotics, as well as other violations related to the laundering of proceeds from drug trafficking, which is included in the definition of an extraordinary crime (Lines, 2010).

Concerning narcotics crimes, Indonesia is not only used as a transit point for narcotics circulation but it is also used as a narcotics black market, even many factories with small to large scale production produce narcotics in Indonesia. Against narcotics crime, the Indonesian government carries out the function of criminal policy through the means of penalization in Law Number 35 of 2009 concerning Narcotics in tackling the circulation and abuse of narcotics, in this Law the application of criminal sanctions imposed for drug abuse is imprisonment, fines and even the death penalty (Puslitdatin, 2020). In this case, what is meant by narcotics abuse is a problem that involves all aspects of human life, whether physical, biological, psychological, or social. The impact of narcotics abuse includes premature death, physical disability, and socio-economic losses to the community, so it is very necessary to take action to prevent drug abuse.

Circulation of narcotics is very wide and has even become a real enemy for parents, nowadays teenagers are very vulnerable to being affected by narcotics, because teenagers are objects who are still emotionally unstable, so they are very vulnerable to using drugs. Starting from curiosity, wanting to experiment, joining friends, a strong sense of group solidarity, choosing the wrong environment to family factors that are not paying attention, and so on. Apart from their unstable targets, schools and campuses are vulnerable places for narcotics trafficking. In general, the impact of abuse can be seen physically, psychologically, and socially, psychological and social impacts include slow work, apathy, loss of self-confidence, depression, difficulty concentrating, mental disorders, anti-social, immoral and ostracized by the community (Puslitdatin, 2020).

The number of narcotics abuse in Indonesia for the last 1 year has reached 3,419,188 people, and the number of suspects in narcotics crime cases reached 52,709 people. There are 3 (three) types of narcotics that have been most frequently consumed in the last 1 year, namely marijuana, shabu, and ecstasy (Widdy et al, 2020). Narcotics crime is one of the most common crimes in Indonesia. The rise of narcotics abuse has now become one of the problems that are troubling the community, the circulation of narcotics in Indonesia attacks young people who are the nation's next generation. If the next generation of the nation has been poisoned by narcotics, it can result in state losses.

Law Number 35 of 2009 concerning Narcotics Article 54 mandates that narcotics addicts and victims of narcotics abuse are required to undergo medical rehabilitation and social rehabilitation. A Narcotics addict is a person who uses or abuses narcotics and is in a state of dependence on narcotics, both physically and psychologically. The explanation in article 54 explains that what is meant by a victim of narcotics abuse is someone who accidentally uses narcotics because he is persuaded, deceived, deceived, forced, and or threatened to use narcotics.

The enactment of Law Number 35 of 2009 concerning Narcotics has not provided a clear conception of narcotics addicts, narcotics abusers, and victims of narcotics abusers so that it has an impact on the same handling of narcotics addicts, narcotics abusers, and victims of narcotics abusers with dealers or narcotics dealers. The handling of narcotics addicts, narcotics abusers, and victims of narcotics abuse should be focused on rehabilitation efforts through a comprehensive and accountable assessment mechanism. Meanwhile, the Narcotics Law does not regulate rehabilitation efforts obtained through assessments.

According to the juridical perspective, narcotics users cannot be categorized as criminals because the nature of the crime must cause victims and the victim is someone else, that means if only oneself is the victim, then it cannot be said to be a crime, so it cannot be punished (Simanungkalit, 2012). The enactment of Law Number 35 of 2009 concerning

Narcotics shows tangible evidence of the state in dealing with narcotics abuse and narcotics dealers, but in its implementation, there are still weaknesses and adjustments are needed to developments in society. In addition, the rehabilitation arrangements have not been comprehensively regulated in Law Number 35 of 2009 concerning Narcotics. This can be seen from the absence of qualifications or criteria for what kind of drug abuse users can be given rehabilitation.

## **METHODS OF RESEARCH**

The research method used in this research is to use an empirical juridical approach to find out how the relationship between law and society and the factors that influence the implementation of law in society, as primary data. The second data is obtained indirectly through library research. This research specification describes an analysis to describe the applicable law related to legal concepts and positive law regarding the main research problem. Based on primary and secondary data, identification, classification, and validation, qualitative data analysis was carried out, and the results were presented in the research report.

## **RESULTS AND DISCUSSION**

*The Urgency of Rehabilitation for Narcotics Abusers.* Handling of narcotics addicts, narcotics abusers, and victims of narcotics abuse is focused on rehabilitation efforts through a comprehensive and accountable assessment mechanism. Meanwhile, Law Number 35 of 2009 concerning Narcotics does not regulate rehabilitation efforts obtained through assessment, in addition, Law Number 35 of 2009 concerning Narcotics does not regulate new psychoactive substances (New Psychoactive Substance / NPS) which are rife circulating in Indonesia. society even though it has the potential to damage health and causes addiction which is as dangerous as narcotics. Regarding the investigative authority, the Narcotics Law regulates the authority of BNN investigators which is different from the authority of the investigators of the Indonesian National Police (Polri) which is regulated in Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP). This condition creates uncertainty in law enforcement for narcotics crimes and narcotics precursors.

Rehabilitation through a legal process is carried out based on the results of an integrated assessment. The integrated assessment is part of the process of law enforcement for the crime of narcotics abuse which provides recommendations to law enforcement on whether narcotics abusers can be given rehabilitation measures or not. Integrated assessment is a form of breakthrough in law enforcement of narcotics abuse crimes, integrated assessment is an effort to prove for narcotics abusers the origin of narcotics abuse and the level of addiction to narcotics.

In addition, the alleged abuser was also investigated to what extent his involvement in the narcotics distribution network was. Is he just an abuser or also included as a courier or dealer? In addition, an analysis related to the background of the alleged abuser was also carried out, whether the suspect had been involved in a narcotic crime before or was just a novice actor.

The implementation of an integrated assessment of narcotics abusers is carried out by the Integrated Assessment Team formed by BNN. The Integrated Assessment Team as the implementer of the assessment consists of several elements of agencies related to law enforcement of narcotics abuse, namely the National Narcotics Agency, the National Police, the Attorney General's Office as a legal team, and forensic specialists and psychologists as a team of doctors/health. The application of the integrated assessment is carried out for a maximum of 2 x 24 hours, then the results of the assessment from the team of doctors and the legal team are concluded no later than 3 (three) days after the assessment process on the third day. After being concluded, the results of the assessments from each assessment team were discussed at a case conference on the fourth day to be determined as a recommendation for the Integrated Assessment Team.

The recommendations of the integrated assessment team contain information regarding the role of suspects and/or defendants in narcotics crimes, the level of dependence on narcotics abusers, recommendations for the continuation of the legal process, and the place and length of rehabilitation. In the interest of the judiciary, the recommendations of the Integrated Assessment Team are attached to the suspect's case file and are confidential. This recommendation will be the basis for a judge's consideration to determine whether the suspect is proven and can be proven to be entitled to undergo medical and social rehabilitation under the objectives of Law Number 35 of 2009 concerning Narcotics.

The implementation of integrated assessments in the field by law enforcement officers still shows minimal numbers. This is because the assessment arrangement is still regulated in a joint regulation at the level of the Minister/Head of the Institution so that law enforcers see the integrated assessment process as an alternative process only. In addition, the technical arrangements for the integrated assessment still lead to different perceptions among law enforcers in implementing the results of the integrated assessment. Currently, the results of the assessment are recommendations, so they are not binding on other law enforcement officers until the end of the judicial process. Decisions issued by judges are almost always in the form of imprisonment, even if it is for narcotics abusers with the new category of single-use or trial users. The role of the current Integrated Assessment Team should be optimized as a party that can determine whether victims of narcotics abusers will enter the judicial process or simply undergo rehabilitation.

*Assessment Formulation for Future Narcotics Abusers.* Clear segregation policies and different handling between narcotics abusers, narcotics addicts, victims of narcotics abuse, and narcotics dealers and dealers will have an impact on law enforcement. Narcotics dealers and dealers will be subject to criminal sanctions, while narcotics abusers, narcotics addicts, and victims of narcotics abuse who because of their negligence in using narcotics and resulting in addiction will be set to undergo rehabilitation.

A policy that is more directed toward rehabilitation rather than sentencing will have a positive impact, namely reducing the overcapacity of prisons due to narcotics convicts. On the other hand, what the government must prepare to overcome the impact of this pro-rehabilitation policy is to increase the quality and quantity of the Rehabilitation Institute. The increase in quality is related to human resources, management, standardization of rehabilitation institutions, and supervision of rehabilitation institutions, while the increase in quantity is related to the number of rehabilitation institutions and their facilities and infrastructure.

If the integrated assessment decision states rehabilitation, the rehabilitation decision from the team is submitted to the court for a rehabilitation determination. The request for determination is aimed at strengthening the legal status of the decisions of the integrated assessment team. The process of submitting the decision to the court can be done through:

- Direct submission of the rehabilitation decision by the investigator directly to the court to obtain a determination; or
- Submission of the rehabilitation decision by the investigator to the court through the public prosecutor, then the prosecutor submits it to the court to obtain a determination.

Narcotics abusers who have received a determination to be given rehabilitation measures will not be prosecuted through a court mechanism. If the integrated assessment decision states that it refuses to be rehabilitated, the integrated assessment team will convey the decision on the refusal to the investigator to further carry out the criminal justice process as appropriate, namely investigation, prosecution, and examination in court.

The policy to place abusers in rehabilitation institutions through an assessment process without a formal trial is a form of depenalization of narcotics crimes where abusers, victims, and addicts who were initially sentenced to criminal sanctions are replaced with rehabilitation. The definition of depenalization is an act that was originally threatened with a criminal offense and then this criminal threat is removed, but it is still possible to be prosecuted by other means than criminal prosecution.

The European Union's Central Government Agency which coordinates drug policy data or the European Monitoring Center for Drugs and Drug Addiction (EMCDDA), defines depenalization as follows: Depenalization means the use of drugs remains a criminal offense, but a prison sentence will not be imposed on the ownership or use even when other criminal sanctions (example, mulct, police records, probation) is possible. In the concept of depenalization, the implementation of rehabilitation for abusers, victims, and narcotics addicts does not go through the mechanism of the criminal justice system as regulated in the Criminal Procedure Code which leads to prosecution and the imposition of criminal decisions by judges. In this context, rehabilitation is obtained through an assessment mechanism carried out by an integrated and independent team to decide whether drug abusers, victims and addicts meet the requirements to be subject to a rehabilitation policy without going through a criminal justice process. If the abuser does not meet these requirements, the handling of the narcotics abuser case is continued through the criminal justice process under the Criminal Procedure Code and prosecution based on the criminal articles in the Narcotics Law.

The application of an integrated assessment towards the determination of rehabilitation is alternative law enforcement with a restorative justice pattern against abusers, victims, and narcotics addicts who have a greater chance of getting rehabilitation. Abusers who have gone through an integrated assessment process and get the results of a decision for rehabilitation are expected to recover, both physically and psychologically so the abuser can get rehabilitation. Abusers who have gone through an integrated assessment process and get the results of a decision for rehabilitation are expected to recover, both physically and psychologically so that the abuser can restore his life due to narcotics abuse. This can also reduce the excess capacity of prisons and state detention centers.

Integrated assessment is a form of breakthrough in law enforcement of narcotics abuse crimes. Integrated assessment is an effort to prove to narcotics abusers the origin of narcotics abuse and the level of addiction to narcotics. In addition, the alleged abuser was also investigated to what extent his involvement in the narcotics distribution network was. Is he just an abuser or also included as a courier or dealer? In addition, an analysis related to the background of the alleged abuser was also carried out, whether the suspect had been involved in a narcotic crime before or was just a novice actor.

The Integrated Assessment Team performs two analytical methods in the application of assessment of narcotics abusers. First, screening using certain instruments, such as medical tests using laboratory instruments related to narcotics. The aim is to obtain information on the existence of risk factors and further problems associated with the use of narcotics by the suspect. Meanwhile, to obtain a clinical picture and an in-depth problem, a clinical assessment is carried out, which aims to create therapeutic communication and interaction, establish a diagnosis of involvement with narcotics, and provide feedback from the suspect to the Integrated Assessment Team.

The lack of implementation of an integrated assessment is because the assessment setting is still regulated in a joint regulation at the ministerial level/head of agency so that law enforcement sees the integrated assessment process as an alternative process. In addition, the technical arrangements for the integrated assessment still lead to different perceptions among law enforcers in implementing the results of the integrated assessment. Currently, the results of the assessment are recommendations so that they are not binding on other law enforcement officers until the end of the judicial process. Decisions issued by judges are almost always in the form of imprisonment, even if it is for narcotics abusers with the new category of single-use or trial users. The current role of the Integrated Assessment Team should be optimized as the party that can determine whether victims of narcotics abusers will enter the criminal justice process or will simply undergo rehabilitation.

With the minimum number of suspects of abusers and addicts being carried out in an integrated assessment, it reduces the opportunity for rehabilitation efforts to be carried out. Whereas the Narcotics Law has guaranteed efforts to regulate medical and social rehabilitation for narcotics abusers and addicts. To improve rehabilitation efforts for narcotics abusers, unequivocal arrangements for integrated assessment must be carried out by law,

including the requirements and procedures for submitting assessments and an integrated assessment teamwork system. The results of the integrated assessment should also be considered for modification. If previously it was a recommendation, it becomes a final decision so that the results of the assessment are binding on all law enforcement officers.

## CONCLUSION

Rehabilitation through a legal process is carried out based on the results of an integrated assessment. The integrated assessment is part of the process of law enforcement for the crime of narcotics abuse which provides recommendations to law enforcement on whether narcotics abusers can be given rehabilitation measures or not. Integrated assessment is a form of breakthrough in law enforcement of narcotics abuse crimes, integrated assessment is an effort to prove for narcotics abusers the origin of narcotics abuse and the level of addiction to narcotics.

Handling of narcotics addicts, narcotics abusers, and victims of narcotics abuse is focused on rehabilitation efforts, the implementation of an integrated assessment towards the determination of rehabilitation is alternative law enforcement with a restorative justice pattern against abusers, victims, and narcotics addicts who have a greater chance of getting rehabilitation. Abusers who have gone through an integrated assessment process and get the results of a decision for rehabilitation are expected to recover, both physically and psychologically so the abuser can get rehabilitation.

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