

Ruling of The Restorative Justice Trial in Narcotics Crime Cases Law No. 35 of 2009 which Has an Impact on The Increasing of Narcotics Users Receiving Restorative Justice

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Abstract. As society evolves, complex challenges related to narcotics abuse demand updated approaches. Restorative justice, focusing on reconciliation, rehabilitation, and social reintegration, emerges as a humane and inclusive solution for narcotics crimes. This research explores the implementation of restorative justice in handling such crimes, highlighting challenges, potential, and opportunities for a more responsive and sustainable criminal justice system. By considering aspects such as public awareness and cross-sectoral cooperation, the research offers insights for improving policies and practices in prevention, law enforcement, and rehabilitation. This normative research employs statutory and conceptual approaches, using secondary data analyzed descriptively and qualitatively. The research concludes deductively, focusing on the impact of restorative justice sessions in narcotics cases under Law no. 35 of 2009. Findings indicate that restorative justice provides a holistic and effective solution to narcotics abuse by emphasizing recovery and social reintegration. Active participation from all parties involved, including perpetrators, victims, families, and communities, fosters dialogue, mutual understanding, and commitment to beneficial solutions. These findings demonstrate that restorative justice is a humane alternative for handling narcotics crimes and a step towards a more inclusive, fair, and sustainable justice system.

Keywords: The verdict of the Restorative Justice, Narcotics Crime Cases, Law no. 35 of 2009 Restorative Justice

1 Introduction

Law No. 35 of 2009 emerged as a response to the increasing number of cases of narcotics abuse which threatens the security and welfare of society. This phenomenon gives rise to the need to look for alternative solutions that are more effective and humane, which not only emphasize punishment for the perpetrator but also restoration and reconciliation between the perpetrator, victim, and society. In cases of narcotics crimes, the restorative justice approach offers solutions that focus on recovery, reconciliation, and rehabilitation by prioritizing the active role of victims and communities in the resolution process. This approach allows the parties involved to dialogue, understand each other, and reach an agreement that encourages the perpetrator's recovery and strengthens social ties in society. By implementing restorative justice in handling narcotics crime cases, it is hoped that an environment that is more inclusive, supportive, and supporting social reintegration for offenders. In addition, by involving victims

and the community in the resolution process, it is hoped that it can increase understanding of the negative impacts of narcotics abuse and strengthen joint commitment to preventing and controlling narcotics abuse in the future.[1] [2]

Execution of the arrangements of Article 55 passage (3) of Regulation Number 35 of 2009 concerning Opiates which controls the execution of obligatory announcing for opiates junkies [3]. The arrangements of Article 55 of the Opiates Regulation are directed in the subsequent part in regards to recovery. According to Article 54 of the Narcotics Law, addicts and those who have been the victims of drug abuse are required to go through both social and medical rehabilitation. Clinical restoration is done in clinics named by the Pastor or completed by specific recovery establishments in the wake of getting endorsement from the Clergyman (Article 56) and managed in the Guidelines of the Priest of Wellbeing (Article 59 passage (1)). In the interim, social restoration for previous opiates junkies is completed both by government organizations and the local area (Article 58) which is controlled by Pastor of Parties guidelines (Article 59 passage (2)). This PP consists of 25 articles that were drafted in accordance with the goals outlined in Article 2, which are as follows: 1. to fulfill the rights of drug addicts to receive treatment and/or care through medical rehabilitation and social rehabilitation; 2. to involve parents, guardians, families, and the community in increasing responsibility for Narcotics Addicts under their supervision and guidance; 3. to provide information for the government in establishing policies in the field of preventing and eradicating the abuse of narcotics and the illicit [4].

Apart from Article 8 and Article 10, there are several other articles in Law No. 35 of 2009 which are also related to the application of restorative justice in handling narcotics crimes. One of them is Article 6 which regulates efforts to prevent narcotics abuse through a holistic and integrated approach, including rehabilitation efforts for perpetrators. This article provides the basis for prioritizing rehabilitation and social reintegration as part of handling narcotics crimes, by the principles of restorative justice. In addition, Article 11 of the Law also provides provisions regarding counseling, education, and rehabilitation for narcotics addicts, including in the context of implementing restorative justice. This article emphasizes the importance of providing comprehensive, holistic, and sustainable education and rehabilitation for narcotics addicts, by involving various parties including family, community, and related institutions. Thus, Article 11 provides a strong foundation for rehabilitation and social reintegration efforts in the context of restorative justice in handling narcotics crimes [5]. Therefore, it is necessary to consider regulations regarding rehabilitation, both medical and social, in the form of government regulations that are more comprehensive in providing regulation of these two types of rehabilitation. Changes also need to be made to the provisions of Law 35/2009 which mandates that medical rehabilitation and social rehabilitation arrangements be regulated in a Minister of Health Regulation and a Minister of Social Affairs Regulation.

The government has attempted to create regulations that guarantee health for its citizens as per the command of the 1945 Constitution. Various efforts have been made, including creating a special law on narcotics and revising the law. Law Number 35 of 2009 concerning Narcotics (Narcotics Law) distinguishes between dealers, sellers, and dealers and narcotics addicts, because they may be considered victims of dealers or sellers who abuse narcotics [6]. Therefore, in the latest narcotics law, sanctions against addicts are different from dealers, sellers, and dealers. The government tackles narcotics addicts by taking activity as recovery observing the command of Regulation number 35 of 2009 concerning Opiates in Article 54 of the Opiates Regulation which plainly expresses that: "Opiates junkies and casualties of opiates misuse are expected to go through clinical restoration and social restoration." Article 1 number 13 of the

Opiates Regulation makes sense of that an Opiates Fiend is an individual who uses or misuses Opiates and is in a condition of reliance on Opiates, both genuinely and mentally [7].

Apart from Article 6, Article 8, Article 10, and Article 11, there is also Article 9 in Law No. 35 of 2009 which has relevance in supporting the application of restorative justice in handling narcotics crimes. This article emphasizes the need for rehabilitation and social reintegration efforts for former narcotics convicts returning to society. This is in line with the principles of restorative justice which emphasize recovery and reconciliation, as well as providing a second chance for perpetrators of criminal acts to return to being productive members of society. In addition, Article 12 of the Law regulates the formation and duties of the Narcotics Agency. National Agency (BNN), which has an important role in efforts to prevent, prosecute, and rehabilitate narcotics abuse. BNN's role includes strengthening inter-institutional cooperation, providing rehabilitation services, as well as developing programs to prevent narcotics abuse. Thus, Article 12 provides the institutional support needed to support the implementation of restorative justice in efforts to handle narcotics crimes.

Not just Regulation Number 35 of 2009 concerning Opiates, however there are likewise a few different guidelines that control this restoration like High Court Round Letter (SEMA) Number 4 of 2010 concerning the Situation of Opiates Victimized and Casualties in Clinical and Social Foundations, then, at that point, The public authority additionally gave Unofficial law Number 25 of 2011 concerning the Execution of Compulsory Detailing of Opiates Junkies to get treatment and recovery administrations, then the Minister of Health also issued Minister of Health Decree Number HK.02.02/MENKES/502/2015 which appointed the recipient agency for mandatory reporting (IPWL) in 33 provinces and along with regulations that strengthen these rules, such as Joint Regulations of the Central Equity of the Republic of Indonesia, Priest of Regulation and Common freedoms of the Republic of Indonesia, Pastor of Soundness of the Republic of Indonesia, Clergyman of Parties of the Republic of Indonesia, Principal legal officer of the Republic of Indonesia, Head of Police of the Republic of Indonesia, Top of the Organization Public Opiates of the Republic of Indonesia [8].

Articles such as Article 4, Article 5, Article 7, and Article 15 of Law No. 35 of 2009 provide an important legal basis for supporting a restorative justice approach. For example, Article 4 which regulates efforts to prevent narcotics abuse holistically, supports the rehabilitative approach which is the core of restorative justice. Likewise, Article 7 guarantees the victim's right to protection and recovery, by the principles of restorative justice which emphasizes reconciliation between the perpetrator and the victim. With the support of these articles, the implementation of restorative justice in handling narcotics crimes can be strengthened and improved, ensuring that all parties involved receive fair and humane treatment.

In an increasingly complex and pressing context related to narcotics abuse, these findings emphasize the urgency of adopting a restorative justice approach in handling narcotics crimes. Narcotics abuse is not only a public health problem but also threatens social, and economic stability and overall community security.[9] Therefore, a more holistic and responsive approach is needed to respond to this challenge. Restorative justice offers inclusive and recovery-based solutions, which not only address the root causes of criminal acts but also improve social ties in society. By paying attention to this urgency, concrete steps must be taken immediately to strengthen the implementation of restorative justice in handling narcotics crimes, and to create a safer, fairer, and more cultured society.

2 Methodology

This sort of examination is Regulating research. The methodologies utilized are a legal methodology and a calculated methodology. The information source utilized is auxiliary information. The data were analyzed qualitatively and descriptively [10]. Drawing conclusions is carried out using a deductive method, namely drawing conclusions from general to specific, especially those related to the research topic, namely the Decision of the Restorative Justice Session in Narcotics Crime Cases, Law no. 35 of 2009 which has an impact on the increasing number of narcotics carried out by Restorative Justice. Subjective information examination is completed on the off chance that the experimental information got is as an assortment of words and not a progression of numbers and can't be set up into classifications. Interview transcripts, data reduction, analysis, data interpretation, and triangulation are all methods of data collection. Other methods include interview observations, document instances, and recording tapes. [11]. And it is usually processed first before being used in qualitative research, including the results.

3 Results and Discussion

3.1 Implementation of Restorative Justice Session Decisions in Narcotics Crime Cases Law no. 35 of 2009 which has an impact on the increasing number of narcotics carried out by Restorative Justice Headings.

The implementation of restorative justice in handling narcotics crimes takes place through a series of steps and processes involving various related parties, including law enforcement agencies, rehabilitation institutions, communities, and criminal perpetrators. The first step in implementing this is the identification of narcotics crime cases that meet the requirements for a restorative justice approach, such as cases involving perpetrators with a desire to improve their behavior and reconcile with victims and the community. After case identification is carried out, the next step is to gather all parties involved, including the perpetrator, victim, and family, as well as representatives from law enforcement agencies and rehabilitation institutions. In this dialogue forum, each party is allowed to convey their views, needs, and hopes regarding resolving cases fairly and with dignity. This approach allows for the creation of mutual understanding and commitment to reach a solution that provides justice for all parties involved[12].

In the legal system in Indonesia, narcotics abuse is qualified as a crime in the narcotics sector as regulated in Law No. 35 of 2009 concerning Narcotics. Narcotics crimes are seen as a form of crime that has serious consequences for the future of this nation, destroying the lives and future, especially of the younger generation. As per Article 127 section (1) Regulation no. 35 of 2009, each individual who misuses Class I opiates is rebuffed with a most extreme detainment of 4 (four) years; Each individual who misuses Class II opiates is by and by at risk to a greatest detainment of 2 (two) years; and Each individual who misuses Class III opiates is by and by obligated to detainment for a limit of 1 (one) year. What is implied by a medication victimizer is an individual who utilizes opiates without privileges or illegal. From this definition, it can be said that a drug abuser is a user. However, the law does not contain what is meant by "narcotics user" as a subject (person), what is often found is its use as a verb [13].

The essence of narcotics law is in principle that addicts and victims of narcotics abuse can be rehabilitated, namely those who are addicts and victims who in the Joint Regulation

Article 4 Paragraph (1) are confirmed as addicts and victims who are arrested but without evidence, but from the results of urine tests, blood, hair tested positive for using narcotics and those who in Article 4 Paragraph (2) are mentioned as addicts and victims who were arrested with a certain amount of evidence with or without using narcotics according to the results of urine, hair, blood or DNA tests, while the case is in progress justice, within a certain period can be placed in a rehabilitation institution, after making a Minutes of Examination of Laboratory Results and Minutes of examination by BNN Investigators and accompanied by a letter of integrated assessment results.

Strengthening the implementation of articles related to restorative justice in handling narcotics crimes requires concrete steps to ensure the success of the process. One step that can be taken is to increase the capacity of law enforcers and rehabilitation officers to understand the concepts and principles of restorative justice. Quality training and education will help them practice a more humane and recovery-based approach to handling narcotics cases.

Apart from that, it is important to strengthen cooperation between law enforcement agencies, rehabilitation institutions, educational institutions, and the community in supporting the implementation of restorative justice. This cross-sectoral collaboration can create strong synergy in facilitating the process of reconciliation and social reintegration for perpetrators of narcotics crimes. By involving various parties and utilizing available resources optimally, it is hoped that the restorative justice process can be implemented more effectively and sustainably [14].

3.2 Implementation of Restorative Justice Session Decisions in Narcotics Crime Cases Law no. 35 of 2009 which has an impact on the increasing number of narcotics carried out by Restorative Justice Headings.

Strengthening the urgency of implementing articles related to restorative justice in handling narcotics crimes is very important considering the broad impact of the problem of narcotics abuse on society. Narcotics trafficking not only damages the individuals directly involved, but also endangers social, and economic stability and general welfare. Therefore, strengthening the implementation of these Articles must be a top priority in prevention, law enforcement, and rehabilitation efforts at all levels. By strengthening the implementation of Articles that support restorative justice, we can create a system that is more responsive to the needs and challenges that arise in handling narcotics crimes. This will allow us to be more effective in rehabilitating victims, changing the behavior of perpetrators, and strengthening social bonds in society. In addition, strong and consistent implementation of these articles will provide a clear signal that the state is serious about combating narcotics abuse and providing protection to the community [8].

In contrast to the previous Narcotics Law, Law No. 35 of 2009 in its general provisions provides several new meanings that the previous Narcotics Law did not have. It can be seen in the definition of narcotics precursors; the definition of Organized Crime is also contained in Law No. 35 of 2009. Apart from that, there are also additional elements of understanding narcotics dependence as a condition, the use of increased doses, and typical physical and psychological symptoms. Law No. 35 of 2009 also provides a new understanding of victims of narcotics abuse as someone who uses drugs by accident because they have been persuaded, deceived, forced, or threatened with using drugs, then there is also an editorial expansion regarding evil conspiracy which is no longer just limited to an agreement between 2 or more people to carry out a narcotics crime, but rather a collusion or agreement between at least two individuals to perpetrate, complete, help, partake in carrying out, request, suggest, work with,

give meeting, become individuals from an opiates wrongdoing association, or sort out an Opiates wrongdoing [1]. Apart from that, this Law also specifically states that the Minister referred to in the Narcotics Law is who carries out government affairs in the health sector.

In supporting the implementation of restorative justice in handling narcotics crimes, several supporting articles provide a strong legal basis. One of them is Article 4 of Law No. 35 of 2009, which regulates efforts to prevent narcotics abuse through a holistic and integrated approach. This article provides the relevant legal basis for prioritizing rehabilitation and social reintegration approaches in handling narcotics cases, by the principles of restorative justice.

Article 7 of the Law also supports the implementation of restorative justice by regulating the rights and legal protection of victims of narcotics crimes. This article emphasizes that victims have the right to obtain protection, recovery, and compensation for losses suffered as a result of narcotics crimes. By recognizing the rights of victims and providing adequate protection, Article 7 creates an important basis for facilitating the process of reconciliation between victims and perpetrators, in line with the principles of restorative justice.[15]

The presence of PP 25/2011 concerning the Execution of Required Detailing of Opiates Fiends, which is a carrying out guideline that executes the arrangements of Article 55 section (3) of the Opiates Regulation. Moreover, it does not provide clarity on who is called an addict and a drug abuser. This PP does not regulate the rights of abusers, but Article 13 states "Narcotics addicts who are undergoing a judicial process can be placed in medical rehabilitation institutions and/or social rehabilitation". Here the PP explicitly only mentions narcotics addicts. This is different in Minister of Health Regulation 4/2020 Article 2 which provides a wider scope of mandatory reporting, including those during the time spent examination, indictment, or preliminary, or the people who have gotten a court administering/choice. Indeed, even in Priest of Wellbeing Guideline 4/2020 Article 3 passage (2) it is controlled that recovery foundations which are IPWL can do clinical restoration for junkies, victimizers, and survivors of opiates misuse. The provisions in these laws and regulations need to be harmonized to guarantee legal certainty and facilitate implementation.

Apart from that, Article 13 and Article 14 of Law No. 35 of 2009 also provide important support in implementing restorative justice in handling narcotics crimes. Article 13 regulates the formation and duties of the National Narcotics Agency (BNN), which has an important role in efforts to prevent, prosecute, and rehabilitate narcotics abuse. Meanwhile, Article 14 regulates the formation and duties of the Anti-Narcotics Commission (Commission-N), which has the task of coordinating and supervising the implementation of national policies in the field of prevention, abuse, and illicit trafficking of narcotics. With the support of these articles, the implementation of restorative justice in handling narcotics crimes will be more secure and effective [2]. This article emphasizes the importance of providing opportunities for perpetrators to receive rehabilitation that suits their needs, taking into account health, social, and psychological aspects. By providing wider access to rehabilitation programs, Article 5 supports a restorative justice approach that focuses on recovery and reconciliation.

Article 15 of the Law also has important relevance in the context of restorative justice. This article regulates efforts to prevent narcotics abuse at the international level, including bilateral and multilateral cooperation between Indonesia and other countries in terms of exchanging information, developing technology, and training personnel. By strengthening international cooperation in preventing narcotics abuse, Article 15 provides additional support for the implementation of restorative justice by expanding the range of resources and approaches utilized.

4 Conclusion

1. In conclusion, the implementation of restorative justice in handling narcotics crimes shows great potential in creating a justice system that is more humane, effective, and sustainable. This approach allows the creation of space for social reconciliation and reintegration, which is key to building a safer and more civilized society. By involving all relevant parties, including perpetrators, victims, law enforcement agencies, and the community, restorative justice encourages the creation of more inclusive and recovery-based solutions, which can ultimately reduce crime rates and strengthen social ties in society.
2. The implementation of restorative justice is also faced with various challenges and complexities, especially in the context of handling narcotics crimes which involve complex risk factors. Strong commitment from various parties and close cross-sectoral cooperation are needed to overcome this challenge. Apart from that, the need for adequate support from various regulations and policies that support the implementation of restorative justice in handling narcotics crimes is also very important.
3. Implementation of restorative justice in handling narcotics crimes requires a holistic, comprehensive, and sustainable approach. By strengthening inter-agency collaboration, increasing the capacity of law enforcement and rehabilitation officers, and supporting the formation of supportive policies, we can create a more responsive system to existing needs and challenges. Thus, restorative justice is not only an effective alternative in handling narcotics crimes but is also a step towards more inclusive and sustainable justice for all parties involved.

5 Suggestions

1. It is important to increase public awareness about restorative justice and its benefits in handling narcotics crimes. Through targeted public education campaigns and outreach programs at the local level, we can help change public perceptions and attitudes toward this approach. Apart from that, education about the dangers of narcotics abuse and its impacts must also continue to be improved, both in schools and in the community.
2. It is hoped that there will be close cooperation between law enforcement agencies, rehabilitation institutions, local governments, and non-governmental organizations in implementing restorative justice effectively. By building strong and mutually supportive networks, we can ensure that all parties are involved in the process of handling narcotics cases, from prevention to social reintegration.
3. It is hoped that it is important to continue to carry out research and evaluation on the implementation of restorative justice in handling narcotics crimes. By studying the experiences and results of various programs that have been implemented, we can identify factors that support or hinder the success of this approach. The results of this research can be a basis for making necessary improvements and adjustments in an effort to increase the effectiveness of restorative justice in the future.

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