

The Urgency of Implementing Assessment of Narcotics Users in Indonesia

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Abstract: The objectives to be achieved in this research are: To review and analyze the policy of criminal sanctions against narcotics users in Indonesia as well as the implementation of assessments of narcotics users. This study uses a constructivism paradigm with a normative juridical approach to solving research problems by examining secondary data obtained through library research on Indonesian laws and regulations governing narcotics, books, research results and journals. The data obtained were then analyzed using descriptive analytical methods. The results of the research show that it is difficult to position narcotics users as perpetrators or victims of narcotics crimes. If you are positioned as a perpetrator, you will be subject to criminal penalties and if you are positioned as a victim, you will be directed to rehabilitation. The assessment of narcotics users in Indonesia is carried out by a team of psychological evaluation assessments, detoxification programs, motivational interviews, brief interventions, maintenance therapy (not carried out within the National Narcotics Agency), and inpatient rehabilitation and counseling.

Keywords: Assessment, Drugs, Indonesia, Narcotics.

1. Introduction

Drug abuse continues to increase from year to year, as seen from the prevalence rate of drug abuse which is always increasing. During the 2019-2021 period, the prevalence rate of drug abuse per year increased by 0.15% from 1.80% in 2019 to 1.95% in 2021. This increase is quite large when viewed from the absolute population, drug abuse is estimated at 3,662,646 residents aged 15-64 years during the last year, an increase of 243,458 people compared to 2019 (3,419,188 people). Meanwhile, the prevalence rate of drug abuse ever used increased by 0.17% from 2.4% in 2019 to 2.57%. If we look at the absolute value, in 2021 it is estimated that as many as 4,827,616 people aged 15-64 have used drugs, this number is 292,872 more people than in 2019 (4,534,744 people). The increase in the prevalence rate also reflects an increase in drug trafficking in society which has caused the number of drug users to increase in just two years [1].

Meanwhile, if broken down by age group, the largest contribution to the prevalence rate ever used in 2021 (2.57%) is made by the age group 25-49 years (productive) with a percentage of 3.00%; followed by the 50-64-year age group at 2.17% and the 15-24-year age group at 1.96%. If the prevalence

rate of drug abuse ever used in 2019 is compared to 2021, the largest increase in the prevalence rate occurred in the 50-64 age group. This is quite worrying considering that this age group is an age group that has a high risk of complications with other diseases. So many officials, artists and people who abuse narcotics. In general, narcotics abuse involves 3 (three) main groups of actors namely first, producers, both national and international networks; Second, dealers consisting of 2 (two) categories of dealers originating from a network of manufacturers and freelance dealers who are commonly called couriers; Third, users, namely the community of all elements. The 3 (three) main groups can become a chain that is difficult to separate.

Several terms are related to the concept of the level of narcotics abuse, namely the classification of categories of narcotics users as follows: Abstinence, namely the period when a person does not use drugs at all for recreational purposes. social use, namely the period when a person has started trying drugs for recreational purposes but has no impact on the user's social, financial, and medical life. This means that these users can still control the level of drug use [2].

One of the problems that has not been clearly accommodated is related to the regulation of narcotics users in the Narcotics Law. It is just that Article 1 point 15 states that an abuser is a person who uses Narcotics without rights or against the law. Narcotics abusers can be interpreted broadly including producers, dealers, and users. They all abuse drugs. This causes the position of narcotics users to be difficult to position whether they are perpetrators or victims of narcotics crimes. If you are positioned as a perpetrator, you will be subject to criminal penalties and if you are positioned as a victim, you will be directed to rehabilitation. The ambiguity of the regulation will lead to misinterpretation in giving criminal punishment.

These provisions can cause confusion in the Narcotics Law, particularly in terms of rehabilitation for users. In the provisions contained in the Narcotics Law it is stated that every addict is obliged to undergo rehabilitation, but in the following provisions it is stated that the procedures that must be passed in the rehabilitation stages must obtain the consent of the victim concerned. This page is 2 (two) contradictory pages because in general addicts will not give their consent to undergo

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rehabilitation [3].

The Narcotics Law still needs clearer regulation regarding the position of the user as a victim and it is also necessary to revise the substances in the annex. Meanwhile the application of the article related to narcotics addicts raises many problems, namely being included in the classification in which a person can be said to be a narcotics addict. In addition, the rules related to addicts also cause confusion and multiple interpretations, especially in determining the category between addicts and narcotics abusers. Therefore, to determine whether someone is an addict or a user, medical studies, network studies and legal studies are needed.

The 3 (three) studies are used as a consideration for law enforcement to determine whether the person caught red-handed is a narcotics user, courier, or dealer. Medical examination is seen from whether the person concerned has a medical history which is stated by a doctor's letter that the person concerned is an addict. Tissue studies can be seen from laboratory tests on the urine in question. Legal studies, the person concerned violated the Articles in the Narcotics Law. An addict in application in the field is subject to Article 127 and must be completed with the results of a urine test from the Food and Drug Supervisory Agency (BPOM) and a statement from the treating doctor, then it can be believed that the suspect is an addict and from a restorative perspective justice he is a victim and does not deserve to be subject to criminal sanctions [4].

Law enforcement against crime in Indonesia where the government as the organizer of state life needs to provide protection and welfare for the community through various policies that are on the agenda in the national development program. This government policy is incorporated in social policy (social policy). One part of this social policy is law enforcement policy (law enforcement policy), including legislative policy (legislative). policy). While the crime prevention policy (criminal policy) itself is part of law enforcement policy (law enforcement policy).

The study of criminal law enforcement can be seen from the way criminal law enforcement is known as the law enforcement or criminal system law enforcement where part of it is crime prevention policy (criminal policy). In crime prevention, two means are needed, namely using penal or criminal sanctions, and using non- penal means, namely law enforcement without using criminal sanctions (penal).

Law enforcement aims to make people obey the law. Community obedience to the law is caused by three things, namely: (1) fear of sinning; (2) fear because the power of the authorities is related to the imperative nature of law; (3) afraid because of shame to do evil. Law enforcement with non- penal means has goals and objectives for internalization purposes.

The existence of the Narcotics Law, namely Law no. 35 of 2009 concerning Narcotics is a legal political effort by the Indonesian government to tackle narcotics crime. It is hoped that the formation of the Narcotics Law will be able to tackle the illicit traffic and abuse of narcotics by using criminal law or penal means [5].

Based on the description of the background of the problems above, the author feels the need to examine more deeply related

to "Reconstruction of Legal Regulations Against Narcotics Abuse Based on the Value of Justice".

2. Research Objectives

- 1) To review and analyze and find current legal regulations against narcotics users in Indonesia.
- 2) To study and analyze and find weaknesses in legal regulations against narcotics abusers in the Indonesian legal system.

3. Research Method

The approach method in this study uses normative juridical methods, with secondary data sources in the form of data obtained by conducting literature studies, both on primary legal materials in the form of regulations and other rules, secondary legal sources in the form of literature books, research results and other sources obtained by browse from selected internet media as well as tertiary legal sources in the form of legal dictionaries and encyclopedias. The data obtained were then analyzed using a qualitative descriptive method.

4. Research Results

A. Prevalence of Drug Abuse in Indonesia in 2021

The prevalence rate of drug abuse is a number that shows the percentage of people who use drugs divided by the total population. This figure is important to know to see the risk of someone's exposure to drugs. In addition, this figure is also important for the government to act in dealing with drug trafficking in Indonesia. The prevalence rate of drug abuse per year in 2021 is 1.95%. This means that 195 out of 10,000 residents aged 15-64 years used drugs in the past year. While the prevalence rate of ever using was 2.57% or 257 out of 10,000 people aged 15-64 years had used drugs. The prevalence rate per year of use is smaller than the prevalence rate of ever use, indicating that it is likely that some of the population aged 15-64 years who have used drugs in the past year will no longer use drugs. the prevalence of drug abuse per year increases by 0.15% from 1.80% in 2019 to 1.95% in 2021. This increase is quite large when viewed from the absolute number of residents, drug abuse which is estimated at 3,662,646 people aged 15-64 years over the past year, an increase of 243,458 people compared to 2019 (3,419,188 people). Meanwhile, the prevalence rate of drug abuse ever used increased by 0.17% from 2.4% in 2019 to 2.57%. If we look at the absolute value, in 2021 it is estimated that as many as 4,827,616 people aged 15-64 have used drugs, this number is 292,872 more people than in 2019 (4,534,744 people). The increase in the prevalence rate also reflects an increase in drug trafficking in society which has caused the number of drug users to increase in just two years [6].

When disaggregated by location of residence, namely urban and rural areas, the data shows the prevalence rate of drug abuse in urban areas is greater than in rural areas, both for a year of use and ever use. The prevalence rate of drug abuse in urban areas a year of use is 2.23%, while the prevalence rate of ever use in urban areas is 3.01%. Meanwhile, the prevalence rate of

drug abuse in rural areas is 1.61% per year and 2.03% in past use. If we pay further attention, during 2019-2021, there has been a significant increase in the prevalence of drug abuse in urban areas, from 1.90% (2019) to 2.23% (2021). This condition is caused by the presence of drug dealer networks and the facilities that support them in urban areas such as entertainment venues, karaoke, malls, and so on, compared to rural areas.

Based on gender, the prevalence rate of drug abuse in men is higher than women both for a year of use or ever use in 2021. From Figure 3.2 the prevalence rate for a year of using men is 2.68% and women is 1.21%. Meanwhile, the prevalence rate for having used men was 3.88% and women was 1.25%. The tendency for men to be more exposed to drugs than women occurs both in urban and rural areas. Environmental and social factors are very influential on drug abuse. The social environment of men is wider than that of women, so that men are more likely to be exposed to drugs than women. This condition can be seen from the habits of men who prefer hanging out and gathering with peers than women [7].

Although the prevalence rate for women is lower than that for men, the prevalence rate for drug abuse among women who have used it for a year or those who have used it has increased significantly. During 2019-2021 the prevalence rate for women who used drugs increased from 0.40% to 1.25% and a year of use increased from 0.20% to 1.21%. Within a year of use, a sharp increase occurred in urban areas, from 0.30% to 1.42%. In urban areas, workplaces that are prone to drug abuse are very open to women, such as entertainment/karaoke venues, salons and so on. On the other hand, the male prevalence rate has decreased, that is, ever used from 4.80% to 3.88% and a year of use decreased from 3.7% to 2.68%. This decline occurred in both urban and rural areas, but a sharp decline occurred in rural areas. It is possible that this was due to conditions during the Covid 19 pandemic. Limited space for movement and more people staying at home during the pandemic influenced reducing the distribution and use of drugs during the Covid 19 pandemic [8].

Meanwhile, if broken down by age group, the largest contribution to the prevalence rate ever used in 2021 (2.57%) is made by the age group 25-49 years (productive) with a percentage of 3.00%; followed by the 50-64-year age group at 2.17% and the 15-24-year age group at 1.96% (Figure 3.3). If the prevalence rate of drug abuse ever used in 2019 is compared to 2021, the largest increase in the prevalence rate occurred in the 50-64 age group. This is quite worrying considering that this age group is an age group that has a high risk of complications with other diseases.

The decriminalization of narcotics addicts and abusers is necessary considering that they are legal subjects who make mistakes because they become victims of criminal acts of drug dealers, so both should be given priority to undergo rehabilitation rather than undergo deprivation of liberty in prison.

B. Assessment Program of Narcotics Users in Indonesia

In general, assessment can be described as a process of

obtaining comprehensive information about the client, both when the client starts the program, while undergoing the program, until after completing the program. Information about clients is generally carried out using three approaches, namely observation, interviews, and medical examinations.

The diagnosis of narcotic use disorder, there are two steps that can be taken, the first is screening using certain instruments. The purpose of this screening is only to obtain information on whether there are any risk factors and/or problems associated with drug use. Various screening and assessment instruments that can be used to explore problems related to drug use disorders have been developed globally, both initiated by research institutions in developed countries, as well as world bodies, especially WHO. Several instruments that accommodate the use of various types of narcotics include:

- a. ASSIST (Alcohol, Smoking, Substance Use Involvement Screening & Testing),
- b. DAST 10 (Drug abuse screening test), and
- c. ASI (Addiction Severity Index). The application of certain instruments is usually associated with the use of these instruments in various countries.

Addiction disease (addiction) is a brain disease, in which the active substance affects the area of behavior regulation. Consequently, the main symptom and sign of the disease of addiction is behavior. In contrast to most other diseases, in addiction, the aspects affected by the condition of addiction have a wide range, starting from self-image, interpersonal relationships, financial conditions, legal aspects, school/work, to physical health. Seeing the complexity that results from the condition of addiction, that is why the assessment process is an important aspect of the approach to the disease of addiction. Quality assessment links diagnosis with initial management, ensures accuracy of initial diagnosis, and identifies the most efficient and effective type of therapy and rehabilitation. To get a more in-depth clinical picture and problem, a clinical assessment was carried out [9].

There are several tools that are generally used to identify someone's involvement in narcotics:

- a. Screening instruments such as ASSIST
- b. Urine analysis
- c. Review of prescriptions

Drugs taken by clients before thing that must be considered is that case finding through the screening tools above needs to be followed up with an assessment process so that a comprehensive clinical picture is obtained. Urinalysis is the most frequently used screening tool, not only by health workers but especially by law enforcement. There is a misunderstanding among many officers, especially law enforcers, that urinalysis can be used as a diagnostic tool. Urine analysis carried out without interviews/screening instruments regarding a history of narcotic use, including prescription drugs, can lead to a wrong diagnosis. Urine analysis is only an important initial screening to detect drug use in acute conditions. Urinalysis results can be difficult to interpret because they often only detect recent use, and it is not easy to distinguish between legal and illegal use.

What needs to be considered in a biological narcotic screening test:

- a. A positive urine or saliva screening test for cocaine and/or heroin is likely to indicate recent use (a few days or a week back), whereas a positive result for marijuana (cannabis) may detect marijuana use within one month. until a few months ago.
- b. It is almost impossible to determine the time of application when the sample is obtained from the hair.

No single narcotic screening test can biologically detect all the commonly abused drugs, for example MDMA, methadone, pentanil, and other synthetic opioids are not included in many narcotic screening tests, and these tests must be ordered separately.

Biological narcotic screening tests examine the drug concentration at a specific threshold value of a sample. Thus, a negative result does not necessarily mean no substance abuse is occurring, and a positive result may reflect use of another substance.

If there is a concern that attempts to harbor results may occur, samples should be monitored for temperature or admixtures and a program should be implemented and followed by accurate chronological documentation procedures.

Clinical assessment steps:

a. Initial assessment

Initial assessment, that is, an assessment carried out when the client is in the early stages of rehabilitation, generally carried out in the first two to four weeks. The initial assessment can generally be completed in two to three weeks of meetings. In some patients with good physical condition and cooperative attitude, the assessment can even be completed in one meeting.

b. Therapy plan

In most clients, the therapy needed is generally related to rehabilitation therapy for drug use problems. But they also need other related therapies, such as family counselling, vocational training, effective parenting training, and so on.

c. Advanced assessment

The assessment for clients is not only carried out when entering the rehabilitation therapy program but needs to be repeated during the period while he is in the program and when the person concerned has finished participating in the program. This page aims to:

- 1) Seeing the progress that is happening to the client.
- 2) Assess current issues that are a problem for clients and new information obtained during the client's therapy process.
- 3) Reviewing the therapy plan and adjusting the therapy plan.

Diagnosis is a process that forms the basis for determining further treatment plans. Several principles in making a diagnosis for drug users include:

C. Mechanism of Implementation of Assessment in Handling Narcotics Cases

The Mechanism for Implementing the Integrated Assessment is regulated as follows:

- a. The Integrated Assessment Team conducted an assessment based on a written statement from the investigator. The investigator submits a request no

later than 1x24 hours after the arrest, with a copy to the head of the local BNN according to the place of occurrence of the case.

- b. The Integrated Assessment Team conducts an assessment a maximum of 2x 24 hours, then the results of the assessment from the team of doctors and the legal team are concluded no later than the third day.
- c. The results of the assessment from each assessment team were discussed at the case discussion meeting (case conference) on the fourth day to be determined as an integrated assessment team recommendation. Assessment Team Recommendations Integrated contains information regarding the role of suspects and/or defendants in criminal acts, the level of dependence of narcotics abusers, recommendations for continuing the legal process and the place and length of time for rehabilitation. The integrated assessment team's recommendation is signed by the integrated assessment team leader. In the interest of justice, the results of the recommendations from the Integrated Assessment Team attached to the suspect's case file must be originals, not photocopies.

D. Methods of Conducting Assessments in Handling Narcotics Cases

The process of implementing the assessment is carried out by:

- a. Examination of urine or hair to find out the type of drug and history of drug abuse.
- b. The interview uses the applicable / standard assessment format in accordance with the Addiction format Severity Index (ASI) which includes medical history, work history / life support, history of drug use, history of involvement in criminal acts, family and social history, and psychiatric history of drug addicts.
- c. Physical examination.
- d. Administer symptomatic therapy if needed. Symptomatic therapy should not be preceded by an assessment, if the physical condition does not allow the assessment can be postponed by prioritizing emergency treatment and symptomatic therapy.
- e. Therapy plan.

After conducting an assessment, several things must be carried out by the officer/ assessor based on the determined work diagnosis and based on the results of the assessment, the officer/ assessor must develop a treatment plan and possibly carry out referral cases related to the physical, psychological, and social conditions of the resident. The assessor can determine more than one of the actions listed:

1. Advanced/in-depth assessment.
2. Psychological evaluation.
3. Detoxification program.
4. Motivational interview.
5. Short intervention.
6. Maintenance therapy (not carried out within the National Narcotics Agency).
7. Inpatient rehabilitation.

8. Counseling.

Then proceed with examination of the functions of the organs of the body and supporting examinations if necessary. Assessments can be carried out at the initial stage, in the process, and after rehabilitation which is carried out at least once every 6 months. The assessment is confidential and carried out by a team with the doctor in charge.

The assessment is not only carried out at the BNN Rehabilitation Center/Workshop but can also be carried out at BNN representatives in the regions (BNNP and BNNK/City).

In the assessment there will be in-depth interviews, good interview techniques are needed, such as using open-ended questions and a language style that is easy to understand, not causing confrontation. If the client has objections in answering a question, stop the interview for a moment, give a pause for the client to have time to consider the answer. It is better to ask questions directly without having to elaborate first so that a boring atmosphere does not occur. After the interview process is complete, there is usually another data check, as a support. There is a physical examination, conclusions obtained, working diagnosis, treatment plan, client, and doctor agreement [10].

E. Assessment Implementation Regulations

Regulations regarding procedures for submitting and carrying out the assessment process are regulated in BNN Head Regulation No. 11 of 2014, while the procedures for carrying out assessments in these rules are as follows:

a. Part One, Submission of Assessment

Article 8

(1) Investigators place a Narcotics Addict Suspect and a Narcotics Abuse Victim who are currently in the process of being judged in a rehabilitation institution.

(2) The placement as referred to in paragraph (1) is carried out after the suspect has received a recommendation based on an assessment from the Integrated Assessment Team.

(3) The assessment as referred to in paragraph (2) is carried out based on a request by the Investigator to the Integrated Assessment Team.

(4) The application as referred to in paragraph (3) shall be submitted in writing with a copy to the Head of the local BNN according to the place of occurrence of the case.

assessment register number based on the request as referred to in paragraph (3).

b. Part Two, Integrated Assessment Team

Article 9

(1) Assessment of Narcotics Addicts or Narcotics Abuse Victims who are without rights and against the law as suspects, an Integrated Assessment Team is formed and appointed.

(2) The integrated Assessment Team as referred to in paragraph (1) consists of:

a. Team of Doctors which includes Doctors and Psychologists who already have assessor certification from the Ministry of Health.

b. The legal team consists of elements from the National Police, BNN, the Attorney General's Office and the Ministry of Law and Human Rights.

(3) The Integrated Assessment Team as referred to in

paragraph (2) is formed in accordance with the conditions and needs of the local National Narcotics Agency.

(4) The Ministry of Law and Human Rights as referred to in paragraph (2) letter b specifically deals with child suspects and involves Correctional Centers

Article 10

(1) The Integrated Assessment Team as referred to in Article 9 carries out the assessment at the Pratama Clinic at the Provincial BNN and Regency/City BNN.

(2) The Primary Clinic as referred to in paragraph (1) has been determined by the local Health Service in accordance with the provisions of the statutory regulations.

Article 11

(1) The Integrated Assessment Team as referred to in Article 9 paragraph (1), in stages under the coordination of:

- a. National Narcotics Agency.
- b. Provincial National Narcotics Agency; and
- c. Regency/City National Narcotics Agency.

(2) The Integrated Assessment Team as referred to in paragraph (1) letter a, for the Central Level is domiciled in the capital and is determined by a Decree of the Head of BNN.

(3) The Integrated Assessment Team as referred to in paragraph (1) letter b, for the Provincial Level shall be domiciled in the Provincial Capital and stipulated by Decree of the Head of the Provincial BNN.

(4) The Integrated Assessment Team as referred to in paragraph (1) letter c, for the Regency/City Level domiciled in the Regency/City capital.

(5) The Integrated Assessment Team as referred to in paragraph (4) for the Regency/City Level is proposed by the Head of the Regency/Municipal National Narcotics Agency and established by decision of the Head of the Provincial BNN.

c. Part Three Duties and Authorities of the Integrated Assessment Team

Article 12

(1) The Integrated Assessment Team has the task of carrying out:

- a. Medical, psychosocial assessment and analysis, as well as recommending a plan for therapy and rehabilitation of someone who has been arrested and/or caught red-handed.
- b. Analysis of a person who is arrested and/or caught red-handed in connection with the illicit traffic of Narcotics and abuse of Narcotics.

(2) The Integrated Assessment Team has the authority to carry out:

- a. At the request of the Investigator to analyze the role of someone who is arrested or caught red-handed as a Victim of Narcotics Abuse, Narcotics Addict or Narcotics dealer.
- b. Determines the criteria for the severity of the use of Narcotics according to the type of content consumed, the situation and conditions when arrested at the crime scene; and
- c. Recommends a plan for therapy and rehabilitation for Narcotics Addicts and Victims of Narcotics Abuse as referred to in letter b.

(3) The implementation of the assessment and analysis as referred to in paragraph (1) is carried out by:

- a. The team of doctors oversees conducting medical and psychosocial assessments and analysis as well as recommending therapy and rehabilitation plans for Narcotics Abusers.
- b. The Legal Team is tasked with conducting an analysis in relation to the illicit traffic of Narcotics and Narcotics Precursor and Narcotics abuse in coordination with the Investigators handling the case.

Article 13

The results of the assessment from the Integrated Assessment Team are confidential in accordance with the provisions of the laws and regulations.

5. Conclusion

- 1) Changing the paradigm of the position of narcotics users in law enforcement practice is difficult to position whether they are perpetrators or victims of narcotics crimes. If you are positioned as a perpetrator, you will be subject to criminal penalties and if you are positioned as a victim, you will be directed to rehabilitation. The ambiguity of the regulation causes misinterpretation in imposing criminal sanctions. The rehabilitation provisions in the Narcotics Law state that every addict is obliged to undergo rehabilitation, but in the following provisions it is stated that the procedures that must be passed in the rehabilitation stages must obtain the consent of the victim concerned.
- 2) The assessment of narcotics users in Indonesia is carried out by a team of psychological evaluation assessments, detoxification programs, motivational interviews, short interventions, maintenance therapy (not carried out within the National Narcotics Agency), and inpatient rehabilitation and counseling.

Advice:

- 1) Reform of regulations regarding the reconstruction of legal regulations against narcotics abusers based on the values of

justice contained in Law Number 35 of 2009 concerning Narcotics requires legal reform. The hope is that the rule of law upheld can show satisfactory results.

- 2) Legal regulations against narcotics abusers should provide a clearer understanding between narcotics addicts/users, narcotics abusers, and victims of narcotics users, so that this is in accordance with one of the objectives of establishing the law is to guarantee medical and social rehabilitation efforts for abusers and narcotics addict.

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