



IMPLEMENTATION OF REHABILITATION POLICY FOR NARCOTICS ADDICTS AS A VICTIMS OF NARCOTICS ABUSE IN INDONESIA

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ABSTRACT

The implementation of the rehabilitation policy by law enforcement agencies in Indonesia currently still does not guarantee legal protection for narcotics addicts as victims of the abuse and illicit trafficking of narcotics. This is because the arrangement of rehabilitation for narcotics addicts in the Narcotics Act of Indonesia is still ambiguous. On the one hand criminalizing narcotics addicts, but on the other hand rehabilitating narcotics addicts both medically and socially. At all levels of law enforcement agencies, whether at the stage of investigation, prosecution, or at trial stage, the rehabilitation policies are implemented differently. Against those suspected of misusing narcotics, some are given rehabilitation and some are not given, although they can be qualified as victims of narcotics abuse. Paying attention to the circumstances, urging the Narcotics Act to be reformed in accordance with the paradigm that narcotics addicts are victims to be protected.

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INTRODUCTION

One form of commitment and political will of the Indonesian government in an effort to prevent the rampant misuse of narcotics is to implement a rehabilitation policy for narcotics addicts. This policy is formulated in Act Number 35 Year 2009 on Narcotics (Narcotics Act). This policy is a manifestation of the legal politics of the Narcotics Act in Indonesia which is essentially aimed at ensuring the regulation of rehabilitation efforts for drug abusers and addicts, as a political will in preventing, protecting and saving the Indonesian nation from the misuse of narcotics. Narcotics Act juridically positioned narcotic addicts in two states. Abusers and narcotics addicts on the one hand are perpetrators of criminal acts of narcotics abuse threatened with imprisonment. On the other hand, drug abusers and addicts are victims, who can be subjected to rehabilitation measures as mentioned in Article 4 letter d "Narcotics Act aims to: Ensure the arrangement of medical and social rehabilitation efforts for drug abusers and addicts", and Article 54 of the Narcotics Act "Narcotics addicts and

Narcotics Abuse Victims shall undergo medical rehabilitation and social rehabilitation". In its implementation, abusers and addicts have not received maximum legal protection as required by Article 54 of Narcotics Act. During this time, almost every drug user caught is always placed in a prison or detention room. This happens either at the level of investigation in the Police, Attorney, even to the stage of the trial. Judges who examine and prosecute narcotics cases generally tend to impose criminal penalties rather than cutting off rehabilitation. In other words, the rehabilitation guarantees that should be obtained by narcotics abusers under Article 4 and Article 54 of the Narcotics Act shall become unrecognized by the provision in Article 127 of Narcotics Act where the abusers, addicts or victims of narcotics abusers shall be subject to imprisonment and loss of their right of rehabilitation, unless it can be proven as a narcotics victim. Similarly, the provision of Article 112 paragraph (1) of Narcotics Act in particular the phrase "without rights or against the law of possessing, storing, controlling" theoretically intended for distributors, but in practice often used to ensnare drug abusers or narcotics addicts to qualify as distributors, because has fulfilled the element "unlawfully possessing, storing, or mastering". This, of course, can lead to legal uncertainty that has the potential to reduce the rehabilitation guarantees that must be obtained.

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In this paper will be described the legal issues related to the implementation of rehabilitation policies for narcotics addicts as victims of narcotics abuse in Indonesia. The purpose of this paper is to find the ideal concept of rehabilitation policy that further guarantees legal protection for narcotics addicts as victims of narcotics abuse. The position pursued in this paper is that the ambiguity of regulatory norms in the Narcotics Act is a serious problem in the criminal law enforcement system in Indonesia. This confusion ultimately leads to differences in the implementation of rehabilitation policies for narcotics users. On the level of practice there are differences in treatment of someone suspected of drug abuse, some are given rehabilitation and some are not, although judging from the quality of his actions can be qualified as a victim. Therefore, an urgent need to be immediately done is to reorient the criminal justice system's imprisonment paradigm of imprisonment to drug users at all levels of law enforcement in the criminal justice system through the implementation of a policy of rehabilitation for narcotics users. This effort is actually a rendering of the mandate of the Narcotics Act which essentially guarantees the right of rehabilitation of any narcotics user.

Theoretical Framework

In order to formulate the frame of thought appropriately, it is appropriate to begin by exploring and exploring some existing theories. This is so that the issues presented have the theoretical backdrops that can be accounted for scientific side. Based on the theoretical framework above, in writing this paper will be used several legal theories that are related to legal issues in this paper, which will be used as a theoretical basis to explain the problems raised in this paper. As the main theory used the theory of integral policy in the prevention of crime as taught by Arif (2008). According to him, the integral policy approach implies: (i) there is integrity between criminal politics and social politics; (ii) there is an intergralitas between criminal and penal penalty efforts. The integral policy of crime prevention has the consequence that any rational attempt to cope with evil must be a unified whole. This means that policies to combat crime by using criminal sanctions should also be combined with other non-penal measures (Arif, 1996). Another opinion related to the need for an integral policy is also put forward by Sudarto (1977) that "... it must be realized that the influence and capability of the criminal law is limited, so that the protection of the people should also use other means other than criminal law, for example the community mental health processing business".

This paper also uses the theory of integrative purpose of punishment (humanitarian in Pancasila system) formulated by Muladi (1985). The use of this theory is based on the consideration that the criminalization problem becomes very complex as a result of efforts to pay attention to human rights factors as well as to make the crime operational and functional. Therefore, a multidimensional approach which is fundamental to the impact of criminal punishment, whether involving individual impacts and the necessity to choose an integrative theory about the purpose of punishment that may affect its function in order to overcome the damages caused by the crime (individual and social damages). Furthermore, Muladi emphasized that the purpose of punishment should be integrative, namely: (a) general and special prevention, (b) protection of the community, (c) maintaining community solidarity, and (d) advisory/balancing.

But Muladi notes that which is the point of gravity, it is casuistic (Sholehuddin, 2007). This theory of integrative punishment objectives departs from the basic assumption that criminal acts are a disturbance of balance, harmony and harmony in the life of society which inflicts individual and society, the purpose of punishment is to repair the damages caused by the crime. Thus, the choice of the theory of integrative punishment purposes is done because of a multi dimensional approach that is fundamental to the impact of punishment, both individual and social impacts. This integrative theory articulates the purpose of punishment at once. In this case the purpose of punishment is not only seen as solely to fulfill the ambition of revenge without having any further purpose (retributive), but also has a further purpose of mere retaliation, ie the purpose for prevention, both general and utilitarian. Therefore, through this integrative theory, punishment contains elements that are: (a) humanitarian in the sense that the punishment imposed stays high on the dignity of the perpetrators, (b) educative in the sense that the punishment is capable of making the person fully conscious for the deeds that he has committed and cause the offender to have a positive and constructive attitude of the soul for crime prevention efforts, and justice in the sense that the punishment is perceived as fair by both the convicted and the victim or by the public.

METHODOLOGY

The writing of this paper rests on the method of legal research, namely research applied or applied specifically to the science of law, or research conducted to solve the legal issues proposed. The type of research used is normative legal research. The use of normative legal research is conducted with the consideration that this research is based on legal norms contained in legislation and other legal materials. The legislation in question is the 1945 Constitution of Indonesia, Narcotics Act and Acts that are of relevance to the legal issues under investigation. The legal materials used in this study consist of primary legal materials and secondary legal materials. The technique of collecting legal materials in this paper is done through literature study, which emphasizes the searching techniques of legal literature. The collected legal substances are identified and then systematically arranged. In order to ensure the validity, objectivity and reliability of the collected legal material, it is done by triangulation examination techniques. The legal materials are then analyzed using legal hermeneutical methods, namely the method of interpretation of the text in which the methods and techniques of interpreting are done holistically in the framework of the interrelationship between text, context, and contextualization.

RESULTS AND DISCUSSION

In order to realize the implementation of an optimal rehabilitation policy based on the mandate set forth in Article 4 Sub-Article d of the Narcotics Act, there are several regulatory norms to be redefined back to the future. Related to this, there are some thoughts that the author can put forward, namely as follows:

Promoting Rehabilitation Policy for Narcotics Addicts

As one of the most important efforts in the prevention of narcotics abuse, the implementation of rehabilitation policy for narcotic addicts has a strategic position.

With the policy of rehabilitation of addicts and victims of narcotics abusers restored and developed their physical, mental, and social abilities, with the ultimate goal of narcotics users recovering from the nature of dependence on narcotics. There have been many studies showing that the implementation of rehabilitation policies on narcotic users who are in an addictive level can reduce the abuse of narcotics and criminal behavior. The results of study by Chandler, et al. (2009), show that: "...individuals who participated in prison based treatment followed by a community-based program post incarceration were 7 times more likely to be drug free and 3 times less likely to be arrested for criminal behavior than those not receiving treatment...". The UNODC (2003) report - a UN agency that deals with narcotics issues - also mentions that: "Individuals with substance abuse and dependence have a relatively high likelihood of contact with the criminal justice system...community treatments and prison-based rehabilitation programmes can form part of the overall treatment system...". The results of the research and the above report indicate the strategic position of the implementation of rehabilitation policies for narcotics users.

Here it is important for law enforcers to define drug rehabilitation policies for drug users rather than to punish them but not to prevent and overcome narcotics crimes themselves. The crime of narcotics will continue to grow even if the perpetrator has been punished because the root cause of the crime was never touched by a healing-oriented policy. As long as the narcotic user is not healed through rehabilitation, so long as the narcotics crime persists. It is also said by Chandler (2009) that punishment alone is a futile and ineffective response to drug abuse, failing as a public safety intervention for offenders whose criminal behavior is directly related to drug use. Addiction is a chronic brain disease with a strong genetic component that in most instances requires treatment. The increase in the number of drug-abusing offenders highlights the urgency to institute treatments for populations involved in the criminal justice system. It also provides a unique opportunity to intervene for individuals who would otherwise not seek treatment.

The authors agree with this statement because the imposition of the law against narcotics users is not an effective solution in the effort to combat drug abuse, but must be addressed through a rehabilitation policy approach. With the act of rehabilitation, what is at the root of the problem of the emergence of narcotics abuse can be reached by eliminating the level of addiction and brain damage, so the perpetrators do not consume back narcotics. Only through rehabilitation policy will the objective of criminal punishment be effectively achieved. Only UNODC (2003) in its report is reminiscent that in many countries, legislation provides for the diversion of drug-dependent persons from the criminal justice system into treatment and rehabilitation programme. In some approaches, the police can allow a detainee access to a specialist drug abuse referral worker who can undertake a needs assessment and recommend a specific treatment programme. The court may take that contact and assessment into account and may itself offer a convicted individual the chance to enter a community treatment service as an alternative to a custodial sentence. That alternative to punishment is governed by strict requirements to attend and comply with a treatment regime. In the event of non-compliance, the person may be terminated from the diversion programme, and the case returned for traditional criminal justice processing.

In this context UNODC warns that the implementation of rehabilitation policies for drug users implemented on law enforcement discretion including investigators, prosecutors and court judges should be conducted on strict administrative requirements and on the recommendation of a specialist. Only in this way can avoid the abuse of authority from law enforcement in the provision of rehabilitation policy. Actually it must be admitted that crime and drug abuse are interrelated because it is the two elements that cause the crime. It is said by Gottfredson & Hirschi (1990) that "Crime and drug use are connected because they share features that satisfy the tendencies of criminality. Both provide immediate, easy, and certain short-term pleasure...". As a result of consuming narcotics will be able to trigger the perpetrators to do evil because of the influence of narcotics that damage the user's brain. Therefore, Chandler (2009) argues that efforts to combat drug abuse should still be done with a policy approach to rehabilitation, because only with medical rehabilitation or social rehabilitation, narcotics users can be treated and recovered from the influence of dependence that can damage the user's brain. According to Chandler, "treatment of addiction through rehabilitation programs for narcotics users if applied in the criminal justice system can help improve public health and reduce criminal behavior". Narcotics users will be far more effective in handling and healing if rehabilitated than serving prison sentences.

According to Lessenger & Roper (2007), although imprisonment may provide a remedial effect for narcotics users, it is only temporary and when the term ends there is no possibility of re-use of narcotics. This implies that every effort to combat drug abuse, especially for narcotics users in the criminal justice system, should be done with an integral approach between recovery (rehabilitation) and punishment (prison). This is according to Lessenger & Roper's view is precisely a solutive and restorative approach for viewing narcotic users as human. Therefore, law enforcement against narcotics users is not an effective solution in the effort to combat drug abuse, but must be addressed through a policy approach to rehabilitation. With the rehabilitation of narcotics users can be treated and recovered from the influence of dependence that can damage the user's brain. When the drug user is declared to have recovered/healthy, of course the crime will not happen again and it has been proven from various research conducted by criminal law expert and criminology.

Narcotics Addicts Should be Placed as Victims of Crime

It was mentioned earlier that one of the most important strategies in preventing the abuse and illicit trafficking of narcotics is the implementation of the rehabilitation policy. Through this rehabilitation policy, narcotics addict are viewed as sick people who need treatment and care. By position as a sick person is to further put the drug addict as a victim. With this policy, victims of narcotics abuse are not only considered criminals, but are also considered victims of crimes that require treatment through rehabilitation agencies. It is also confirmed by Makaro et al. (2003) that "the addict is basically a victim of abuse of narcotic crime in violation of government regulations...". He further explained that "Based on the typology of the victim identified according to the circumstances and status of the victim, the narcotics addict is a "self victimizing victims" ie those who are victims because of their own crime, since narcotic addicts suffer from dependency syndrome resulting from the abuse of narcotics by

themselves". From the perspective of victim responsibility, Schafer defines "self-victimizing victims" as "... those who are victims for their own crimes" (Sahetapy, 1995). Cornil research results show that the victim deserves greater attention and must be considered in making criminal policies and also coaching the perpetrators of crime (Sunarso, 2012). Another point is confirmed by Tonry (2004) that "court could make a care and treatment order where a person posed a significant risk of serious harm to others as a result of their severe personality disorder". Tonry confirmed that "The court should not impose upon a defendant any sentence in excess of that which would be justified by any of the rehabilitative, protective, deterrent or other purposes of the criminal law". In this context Tonry would like to affirm that sentencing drug users, judges are required to have a high sensitivity to care for them and always oriented to healing, even to be treated differently with other offenders, so that the difference in treatment will have a positive effect for healing users of narcotics. The judge does not have to impose to imprison the perpetrator, while on the other hand the offender needs to be rehabilitated. That is, in examining, adjudicating and deciding cases related to the crime of narcotics use, judges should not impose penalties on drug users when it turns out that the perpetrators need to be rehabilitated, because drug users are also victims who need to be cured and the rehabilitation effort itself is also a goal - another purpose in criminal law.

Such a point of thought has also been in line with Friedman (1987) opinion in his book entitled "The Legal System: A Social Science Perspective" that "...the legal system is not a machine, it is run by human beings". The author agrees with this statement because in essence it is a legal system is not a set of machines that process mechanically, but the law is run by people who have the mind and conscience. That is, to impose penalties on narcotics users should also consider whether it can have a positive effect on narcotics users to free themselves from dependence on drugs, or just simply fulfill the formalities of justice in the judiciary. On this side of the legal system initiated Friedman not only wanting to achieve legal certainty alone, but also has considered the aspect of usefulness in the judicial process as one of the core of the purpose of criminal punishment in the penal law.

Although Friedman also confirmed that "crime must be punished not only because it is intrinsically dangerous, but also because it offends the solidarity of society - it is an attack on the "common conscience", but the authors hold that the opinion can only be applied and apply to the perpetrators of crimes in general. For the narcotics addict as a victim of drug abuse that the state fails to prevent and overcome, it can not be treated equally because it has different crime characters. For the narcotics addict other than as the perpetrator of the crime as well as the victim so the treatment must also be different, except for the narcotics perpetrator applies the opinion of Friedman who must be punished as much as possible, even if necessary sentenced to death bind the effects of the crime committed. Narcotics addicts are "self victimizing victims" who are victims of their own crimes because narcotic addicts suffer from dependency syndrome due to their own narcotics abuse, so they must be approached with different criminal law policies. A crime is essentially a deviant behavior of the norms of law prevailing in society. When the law is violated the state will act to provide rational therapy to the perpetrator. If the state is unable to rehabilitate their mental attitude, it can be imagined that the situation will become more and more

chaotic. What is the purpose of criminal law will not be achieved in overcoming the crime, because what is the trigger factor of the evil itself is untouched. Good imprisonment is a policy that can minimize the crime rate or as an effective preventive measure against the level of crime itself. This can only be accomplished if the prevention and control of narcotics abuse positions the offender as the victim of a whole series of criminal abuse and narcotics trafficking processes.

Rehabilitation Policy as an Integral Policy

Narcotics crime prevention efforts can not only rely on penal facilities because criminal law in its work has limitations. Therefore, efforts to overcome narcotics abuse have been approached with an integral policy approach. This is the main reason for the need for an integral policy as stated by Sudarto (1977) that it must be realized that the influence and capability of the criminal law is limited, so that the protection of the people must also use other means other than criminal law, for example the processing of mental health of the community. The integral policy is essentially a crime prevention policy that integrates criminal politics and social politics, and between criminal and penal penalty efforts. The integral policy in crime prevention has the consequence that all rational efforts to tackle crime must be a unified whole. This means that policies to combat crime by using criminal sanctions should also be combined with other non-penalizing efforts.

Thus, this integral policy not only pays attention to the various social aspects and negative effects of drug abuse and illicit trafficking as well as the tendency of narcotics crimes, but also needs to pay attention to crime victims. The rights of victims should also be seen as an integral part of the overall criminal policy. Therefore, efforts to overcome narcotic crime through integral policy instruments can be pursued by two policies, namely: "social policy and criminal policy which is also part of social policy itself". In terms of crime prevention (criminal politics) it is also used two policies, namely "... by using penal, by using criminal sanctions, and by non-penal policies" (Arif, 1996). The main purpose of these non-penal efforts is to improve certain social conditions. In the context of drug abuse, the rehabilitation effort for narcotics users as a non penal means in criminal law enforcement is aimed at improving, that is, restoring the user in a healthy and clean condition from the influence and dependence on narcotics. Therefore, a criminal policy in the opinion of Muladi and Arif (1998) should be able to integrate and harmonize all non-penal activities into an organized and integrated system.

With such a framework, the policy of crime prevention through penal means must pay attention to the achievement of social welfare objectives and policies in the form of social welfare and social defenses. This implies that the Narcotics Act is intended to provide for the protection of the people and to provide assurance and protection of the public against the danger of illicit narcotics. The importance of integral policies in the prevention of narcotics abuse is also stated by Gray (in Lessenger & Roper, 2007) who asserts that every effort to overcome narcotics abuse especially for narcotics users in criminal justice system should be done with an integral approach between recovery (rehabilitation) and punishment (prison). The implementation of rehabilitation policies in an integrative policy framework to narcotics addicts is a correction of the imprisonment paradigm against narcotics users.

Legal treatment of narcotic users should adopt the development of the medical world. This is in line with Nolan (2003) that though there was common ground in the medical and legal interpretation of drug use as something in need of termination, there were wide differences in how to handle the drug addict. Not only did the legal not adopt the medical world's shift to psychological explanations for addiction, it largely ignored the discases concept of addiction altogether, choosing instead to draw upon a perspective derived from a moral or religious interpretation of the behavior". It must be admitted that the law seems to be less adopting the development of the medical world to explain the effects of addiction on narcotics users. It seems that Olan thesis is based on the fact that almost all criminal justice policies intended for narcotics users are solely influenced by cultural dominance that sees drug addicts as immoral and should be subject to sanctions. Therefore, Nolan offers a constructive idea where the legal arrangements for narcotic addicts in harmonization by adopting medical development, so in this context it is important to prioritize the implementation of integrative policies in order to prevent and overcome narcotics misuse.

Oriented to "treatment" for Narcotics Addicts

The policy of rehabilitation of narcotics addicts essentially adheres to the theory of treatment as one of the objectives of punishment. With the rehabilitation policy, narcotic addicts are involved in an integrated medical treatment process to relieve them of dependence on narcotics. Narcotics users, either as abusers, addicts, or narcotics abuse victims are sick people who need care and repair. Related to this, Jeffery (Mulyadi, 2008) writes as follows "treatment as the purpose of punishment is worthy of being directed at the offender, not on his actions. Criminalization intended on this flow is to provide treatment and rehabilitation to the offender in lieu of punishment. The perpetrator is a sick person, requiring treatment and rehabilitation". Another opinion is also confirmed by Packer (1968) that rehabilitation is done against the perpetrators because in imposing sanctions should be oriented to the individual self-perpetrators, not to his actions. How to make the individual perpetrator of the crime to be better.

Referring to this meaning, punishment for narcotics addicts does not seem merely to take revenge, but more than that the criminal has another useful purpose. In addition, the criminal itself is prospective and although it is defamatory, it is meaningless if it is not able to prevent the occurrence of crime for the benefit of the welfare of society as Christiansen (1974) said that "...the punishment is prospective, it points into the future; it may contain as element of reproach, but neither reproach nor retributive elements can be accepted if they do not serve the prevention of crime for the benefit or social welfare. Something irrefutable that the occurrence of criminalization of criminals, especially against victims of narcotics users will actually lead to the determination of irrelevant punishment. This has been reminded of Husak (2008) as follows : "...over criminalization almost inevitably produces disproportionate punishment, even when offenders have actually violated a criminal statute that everyone agrees to be a legitimate use of the penal sanction. Although a theory of criminalization might not reduce the incidence of plea bargaining overall, it might reduce the injustice caused by it...". In fact, the process of imposing sanctions on the perpetrators of crime in judicial practice often no longer

questions about how the behavior can occur or not the problem of its causes, but rather whether the action is criminal or not, moral or immoral as its size. This shows that the issue of imposing sanctions is more on the issue of description and reference systems, not the cause of the consequences of the crime, as Gottfredson & Hirschi (1990) asserts that : "...the sanctioning system determines whether the behavior is criminal or noncriminal, moral or immoral, but this is merely a matter of description or system reference, not a matter of causation. This implies that the imposition of sanctions for narcotics users as victims of narcotics abuse activities should also be based on the causal relation of why the act of using the narcotics occurred, not only on the issue of criminalization only as determined by law. With such a pattern of approaches can actually provide a positive effect for the effort to prevent drug abuse because it is more solutive.

Therefore, it becomes meaningless if the narcotics user as a victim of narcotic abuse activity is approached with an imprisonment paradigm, because the core is not the prison but the healing of the dependence on narcotics, so punishment by treatment method becomes an effective solution in the prevention effort abuse of narcotics. This is also in line with the existing punishment paradigm in the Narcotics Act, which emphasizes the effort of rehabilitation as a non-penal means in the form of treatment for narcotics users, which is an integrative part of criminal law policy in the field of narcotics.

Performed Through a Restorative Justice Approach

Implementation of the rehabilitation policy for narcotics addicts is essentially a form of punishment orientation that puts the victim status as an important part of the purpose of crime. Implementation of the rehabilitation policy on narcotics addicts is basically motivated by the attention to the victims. It is within this framework that rehabilitation policies for narcotics users should be conducted with a restorative justice approach, because only with a restorative justice approach is believed to be one of the solutive strategies in dealing with narcotics abuse and the danger of narcotics circulation, as well as answering dissatisfaction with the workings of the current criminal justice system. In this case, Zulfa (2011) put forward that restorative justice is offered as an approach that is deemed to meet that demand. The return of the criminal justice authority from the judiciary as a representative of the state to the community through a restorative justice approach in which the victims and the community are the components that must exist and determine. Meanwhile, according to Tews (2006), "attention to victims is the core values of restorative justice". The meaning contained in the policy of rehabilitation in the Narcotics Act is part of the concept contained in restorative. In the view of Zehr (1990) "crime is a violation of people and relationship. It creates obligations to make things right. Justice involves the victims, the offender, and the community in a search for solutions which promote repair, reconciliation, and reassurance". Restorative justice is defined as a process to involve, enabling greater involvement of parties, ie parties with an interest in a specific breach. Then jointly identify and direct the losses, needs, and obligations in order to heal and place the rights of the parties as points that may be addressed to be resolved. The review by Higate, et al. (2006), "crime that have a victim provide an opportunity for loved ones to confront the drug user's victimization of him – or herself and the collateral victimization of his/her family. In other words, a restorative strategy exploits criminalization to challenge both

the harm that results from drug use and the drug use itself'. It seems that Higate realizes that the effective solution that can be taken in the effort to overcome the misuse of narcotics is to make a restorative effort through the approach of rehabilitation policy which is believed to be a solutive solution for narcotics users as victims of narcotics abuse itself. Nevertheless, Higate realizes that the reality of restorative justice implementation for the victims is still slow and small in its influence in the criminal justice system, which it outlines although restorative justice has provided an important focus for those interested in reforming the criminal justice system, it has been slow to engage with drugs issue and has had little impact in this area. It may, however, be particularly relevant because of its ability to fuse the nations of care and control.

Such a situation should be a trigger for the state to reorient in formulating a new paradigm of victims' handling of narcotics abuse with a restorative justice approach. Implementation of the rehabilitation policy with this restorative justice approach is the basic principles outlined by the United Nations so that it can be used in a rational criminal justice system. This is in line with the Hoefnagels who stated that "a rational total of the responses to crime" (Arif, 2008). The settlement of criminal cases using a restorative justice approach in the context of criminal law enforcement against narcotics abuse basically focuses on the effort of transforming mistakes perpetrators make with improvement efforts. Basically, the settlement of criminal cases using restorative justice approach is one option offered. This is not to say that with the presence of restorative justice it causes the conventional criminal justice system to disappear. The presence of a criminal justice system is still considered necessary when a restorative justice approach can not achieve the desired outcome. Nevertheless, the choice of settlement of criminal cases using a restorative justice approach may also be a framework for the operation of the conventional criminal justice system. Because basically the process of settling criminal cases by using restorative approach is a process in order to find the best form of a settlement of disputes that occur in society, whether implemented independently by the community or by involving the criminal justice system.

The various regulatory norms outlined above should serve as a basis for managing the implementation of future rehabilitation policies. The disadvantages of the Narcotics Act particularly related to the implementation of the rehabilitation policy can be renewed by reaffirming the above regulatory norms in the form of reformulating rehabilitation policies, thus providing greater legal certainty and ensuring legal protection for narcotics users as victims of drug abuse and illicit trafficking. The author believes only in such a way that no more narcotic users are criminalized and at the same time further reinforces the paradigm contained in the Narcotics Act that guarantees medical and social rehabilitation not only to addicts but also to the abuser.

Conclusion

To better ensure the implementation of rehabilitation policies for future drug users, which can better guarantee the legal standing and protection of narcotics users, it is necessary to reform Narcotics Act that is tailored to the paradigm of narcotics users as the victims to be protected as mandated by the Narcotics Act. The Narcotics Act update is focused on the affirmation of regulatory norms that can further optimize the

implementation of rehabilitation policies. Parliament and the government must immediately reform Narcotics Act in order to end the ambiguity of the arrangement especially related to the implementation of the rehabilitation policy. The norms that need to be reinforced in the reform are: (i) strategic position and urgency of rehabilitation policy, (ii) placement of user as sick and victim of crime, (iii) coping of narcotics crime is done by integral policy approach which combine between means of penal (iv) the urgency of treatment and treatment measures and (v) reorienting the implementation of rehabilitation policies through a restorative justice approach. With this update is expected to provide certainty and protection for narcotics addicts as victims. As for law enforcement, should have the same paradigm in the effort to prevent and overcome the abuse of narcotics. Narcotics addicts are sick people who need to be treated and treated in a rehab. Imprisonment jail is not a solution, but it will increase the rate of preliminary abuse of narcotics.

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