



Mapping The Effectiveness Of Restorative Justice Through Rehabilitation In Handling Drug Abuse Cases

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Abstract: The purpose of this research is to describe the effectiveness of restorative justice through rehabilitation in drug abuse cases at the Gorontalo Provincial BNN, as well as to identify the inhibiting factors. This research uses empirical legal approach with descriptive method, conducted at the Office of National Narcotics Agency of Gorontalo Province. Data were collected through interviews, literature review, and documentation, with qualitative data analysis. The results showed that restorative justice through rehabilitation has not been fully effective, as indicated by drug abusers who still use drugs again after rehabilitation. The inhibiting factors include internal aspects such as the patient's lack of determination and external aspects such as inadequate facilities and infrastructure and negative stigma from the community.

Keywords : Law Enforcement; BNN; Narcotics

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1. Introduction

Restorative justice is a justice system that emphasizes the individual rights of the accused and non-accused, and can be compared to alternative legal methods such as social work. It involves collaborative participation between the accused, non-accused, and the community, allowing for more effective conflict resolution, thus improving the justice system.¹

The form of regulation governing restorative justice in cases other than children is not in the form of a law, but through the enactment of a number of regulations under the law issued by law enforcement agencies and judicial institutions, including:

1. Regulation of the National Police of the Republic of Indonesia Number 8 of 2021 concerning Handling Crimes Based on Restorative Justice
2. Attorney General Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice
3. Attorney General's Manual Number 18 of 2021 on the Settlement of Cases of Drug Abuse through Rehabilitation with a Restorative Justice Approach as an Implementation of the Dominus Litis Principle of Prosecutors
4. Decree of the Director General of the General Justice Agency of the Supreme Court Number 1691/DJU/SK/PS.00/12/2020 concerning the Implementation of Guidelines for the Application of Restorative Justice.²

Narcotics are substances or drugs derived from plants or non-plants, both synthetic and semisynthetic, which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can cause dependence. Law Number 35 of 2009 concerning Narcotics regulates production, distribution, distribution, trade, possession, acceptance, delivery, export and import, deviation, carrying, treatment, reporting, opening, packaging, melting, advertising, destruction and others.

The thesis study entitled "Analysis of the Case Settlement Policy through Restorative Justice for Narcotics Addicts Based on Perja No.18 of 2021" examines the application of restorative justice in handling cases of narcotics addicts, where the prosecutor's office can stop prosecution and prioritize rehabilitation as a recovery step. Restorative justice is considered to provide a deterrent effect and an opportunity for offenders to improve themselves through physical, psychological, and spiritual rehabilitation. This thesis has similarities in focusing on the concept of restorative justice with other studies, but differs in the location and object of research, the first on narcotics abuse at the Gorontalo Province BNN and the second on case settlement policies for drug addicts based on certain regulations.

¹ Haposan Sahala Raja Sinaga, "Penerapan Restorative Justice Dalam Perkara Narkotika Di Indonesia," *Jurnal Hukum Lex Generalis* 2, No. 7 (2021): 528–41.

² Manuel Rianto Siburian, Marzuki Marzuki, Dan Panca Sarjana Putra, "Restoratif Justice Terhadap Penanganan Tindak Pidana Penyalahgunaan Narkotika (Studi Di Polres Asahan)," *Jurnal Meta Hukum* 2, No. 3 (2023): 50–62.

The Attorney General's Manual No. 18 of 2021 explains the requirements for rehabilitation for drug abusers through the legal process, including verification of drug use through lab tests, involvement in drug networks, drug possession, and rehabilitation history. Under the Narcotics Law, requests for rehabilitation can be submitted by suspects or their families to BNN or rehabilitation institutions. Drug abusers who have undergone rehabilitation more than twice can be charged with a criminal offense. The rehabilitation program at BNN Gorontalo Province is part of efforts to implement restorative justice, reflecting a commitment to the recovery of people who abuse drugs.³

According to preliminary data found by prospective researchers, drug abuse cases in Indonesia are very worrying, including cases of drug abuse in Gorontalo. The data shows from 2020 to 2022 as follows:

Table 1.1 Data on addicts and drug abusers undergoing rehabilitation in Gorontalo Province from 2020 to 2022

No.	Year	Number of drug abusing patients rehabilitated	Number of patients who have been rehabilitated and are still abusing drugs
1	2020	195	12
2	2021	209	10
3	2022	155	5
Total		579	27

Source: BNN Gorontalo Province, Year 2023

The data shows that the number of rehabilitation patients for drug abusers in Gorontalo Province from 2020 to 2022 has increased and decreased. In 2020 there were 195 patients, in 2021 there were 209 patients, and in 2022 there were 175 patients, thus showing a total of 579 patients.

From 2020 to 2022 there were 579 patients where not all patients who had undergone rehabilitation had experienced recovery, but there were still some patients who were still using drugs. The data shows that from 2020 to 2022 there were still 27 patients who had undergone rehabilitation but were still abusing drugs. The type of narcotics

³ Sienny Karmana, Anak Agung Sagung Laksmi Dewi, Dan Luh Putu Suryani, "Implementasi Restorative Justice Bagi Pelaku Penyalahgunaan Narkotika Di Direktorat Reserse Narkoba Polda Bali," *Jurnal Interpretasi Hukum* 4, No. 1 (2023): 68–73.

used by 27 patients who have been rehabilitated but still abuse narcotics is methamphetamine.

Restorative justice through rehabilitation in drug abuse cases should be able to resolve drug abuse cases in Gorontalo through programs that have been implemented by the National Narcotics Board of Gorontalo Province, but the data shows that the implementation of justice through rehabilitation is still not going well, marked by the existence of drug abuse patients who have undergone rehabilitation but still abuse drugs.

2. Method

This research is an empirical legal study that aims to describe the effectiveness of restorative justice through rehabilitation in drug abuse cases in Gorontalo, following the guidelines of Mukti Fajar and Yulianto Achmad.⁴ This research is descriptive, providing a detailed description of restorative justice in the treatment of drug addicts. Conducted at the Office of the National Narcotics Agency of Gorontalo Province, the research collected primary data directly from respondents and secondary data from libraries, including relevant legal materials and academic literature. The sample consisted of BNN rehabilitation officials, medical personnel, and patients, with data collection through interviews, literature review, and documentation to ensure data integrity and accessibility. Data analysis was conducted qualitatively, describing findings based on existing reality and drawing inductive conclusions from specific facts to provide a general understanding of the research subject.

3. The Effectiveness of Restorative Justice Through Rehabilitation in Drug Abuse Cases at the Gorontalo Province BNN

The drug problem is one of the most complex and persistent social challenges, often seen as a 'perennial case' with no definitive solution. Originally used legally in medical practice, narcotics are now often abused, especially among young people seeking personal pleasure without realizing the risks involved. The medicinal benefits of certain drugs become ironic when inappropriate use results in great harm to individuals and society, especially the younger generation. Drug abuse and illicit trafficking not only endanger the personal lives of users but also undermine cultural values and erode national resilience. Factors such as a social environment that provides opportunities and means, as well as personality issues such as low self-esteem and emotional or mental instability, contribute to the increase in drug abuse. Whether it is due to strong curiosity in adolescence, lack of family affection, excessive facilities from parents, or attempts to overcome feelings of inferiority and seek escape

⁴ N. D. Mukti Fajar Dan Yulianto Achmad, *Dualisme Penelitian Hukum: Normatif & Empiris* (Pustaka Pelajar, 2010).

from the rules, all these aspects together trigger a negative tendency towards abuse of these substances.⁵

Law No. 35/2009 on Narcotics has changed the paradigm that drug abusers are not always perpetrators of criminal acts, but are victims of their own drug abuse. In the Supreme Court Circular Letter (SEMA) Number 4 of 2010 concerning the Placement of Narcotics Abusers, narcotics abusers and narcotics addicts into Medical Rehabilitation and Social Rehabilitation Institutions is also emphasized regarding the basis of consideration or reference for judges in imposing rehabilitation sanctions. This is regulated in number 3 letter a stipulates that:

In the event that the judge imposes a sentence in the form of an order for legal action in the form of rehabilitation of the defendant, the panel of judges must explicitly and clearly designate the nearest place of rehabilitation in the verdict. His/her verdict.⁶

The punishment for drug abuse cases regulated under Law No. 35 of 2009 concerning narcotics is the law of undergoing rehabilitation, where Article 103 paragraph (2) reads: the rehabilitation period is counted as a period of serving a sentence. The authority to impose rehabilitation sentences is given to judges based on Article 103 paragraph (1) which reads: judges in examining cases of narcotics addicts can:

- a. Decides to order the person concerned to undergo treatment and/or care through rehabilitation if the drug addict is found guilty of committing a drug crime.
- b. Stipulate to order the person concerned to undergo treatment and/or care through rehabilitation if the drug addict is found not guilty of committing a drug crime.⁷

The word "may" in Article 103 paragraph (1) means the additional authority of the judge, in addition to the authority to unify the punishment for the defendant who is found guilty and release the defendant who is found guilty and release the defendant who is found not guilty. The use of the judge's authority is mandatory based on Article 127 paragraph (2) which reads that in deciding cases of abuse the judge must pay attention to the provisions referred to in Article 54, Article 55, and Article 103.

According to the author, the judge is guided by the law. Regarding narcotics abuse, of course, judges use Law Number 35 of 2009 concerning Narcotics. Judges when

⁵ Yohanna Florensia Dian Wahyu, "Strategi Dalam Pencegahan Penyalahgunaan Narkoba Pada Kalangan Remaja Oleh Badan Narkotika Nasional Kabupaten (Bnnk) Temanggung," *Journal Of Politic And Government Studies* 11, No. 2 (2022): 475-86.

⁶ Siti Hidayatun Dan Yeni Widowaty, "Konsep Rehabilitasi Bagi Pengguna Narkotika Yang Berkeadilan," *Jurnal Penegakan Hukum Dan Keadilan* 1, No. 2 (2020): 166-81.

⁷ Dr Anang Iskandar Dan S. Ik, *Politik Hukum Narkotika* (Elex Media Komputindo, 2021).

deciding a decision on a narcotics abuse case must not miss the provisions and objectives of Law Number 35 of 2009 concerning narcotics which states that narcotics abusers have a guarantee to get recovery efforts or what is commonly known as rehabilitation, both medical rehabilitation and social rehabilitation. Juridically, if the abuser becomes an addict or can be proven or proven as a victim of narcotics abuse or an addict, the abuser is obliged to undergo rehabilitation.

The main steps taken by the State in tackling drug abuse and illicit drug trafficking are as follows:

- a. The state establishes a body or agency responsible for coordinating preventive and repressive measures against illicit drug trafficking and conducts international cooperation in an appropriate manner without prejudice to oblige through diplomatic channels.
- b. All acts relating to the possession of narcotics, including cultivation, offering for sale and purchase, importation contrary to the applicable provisions, committed intentionally, are punishable by loss of liberty. If the offense is committed by a drug abuser, a substitute or alternative to or in addition to the punishment is provided that the abuser must undergo treatment, education after rehabilitation and social reintegration.
- c. Give special attention to people who abuse drugs by taking action to prevent, identify early, care, education, after care, rehabilitation and social reintegration.
- d. Promote personnel training in the areas of treatment, after-care, rehabilitation and social reintegration for people who abuse drugs.
- e. Make every effort to help the community understand the problem of drug abuse and its prevention.
- f. Promote such understanding where there is a risk of widespread misuse.⁸

These steps were then realized in the form of Law No. 35/2009 on narcotics with the following format:

- a. Ensure the availability of narcotics for the benefit of health, science and technology.
- b. Prevent, protect, and save the Indonesian people from drug abuse.
- c. Combating illicit drug trafficking, and
- d. Ensure the regulation of medical rehabilitation and social rehabilitation efforts for abusers.

According to the author of Law Number 35 of 2009 concerning Narcotics, there are law enforcement targets, namely first conducting rehabilitative law enforcement, in the form of law enforcement without forced efforts in the form of detention, instead placed into rehabilitation institutions and punished with rehabilitation sentences. Second, repressive law enforcement, in the form of law enforcement by detaining and

⁸ N. P. M. Yoslan, "Penerapan Asas Keadilan Dalam Putusan Hakim Wajib Menjalani Rehabilitasi Medis Dan Sosial Bagi Pecandu Narkotika Menurut Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika Di Indonesia" (Unpas, 2017).

giving prison sentences. The Narcotics Law differentiates between drug abusers and dealers. Dealers are eradicated while people who abuse drugs are guaranteed rehabilitation.

There are two reasons why law enforcement against people who use drugs is an additional mission of law enforcement. First, because overcoming drug abuse is the main mission of the apparatus that develops the rehabilitation function because the Narcotics Law requires abusers whose condition is drug dependence to undergo rehabilitation. Second, drug crimes, consisting of abuse and distribution crimes, must be sorted out because they have different objectives.

The Indonesian government has implemented the Narcotics and Drug Rehabilitation Law which aims to provide rehabilitation services for those who have been convicted of a criminal offense. This includes providing legal assistance, supervision, and oversight to help individuals with criminal records enter rehabilitation facilities.

The law also regulates the use of funds to support rehabilitation efforts in rehabilitation centers. This is done through the provisions of Articles 111 and 112 of the Narcotics Law which stipulate that people who do not have the legal right to be arrested, detained or imprisoned are entitled to a fine of IDR800,000,000.00 (setor rupiah) and IDR8,000,000,000.00 (setor rupiah). The law also stipulates sanctions for non-compliance with the law, such as imprisonment of up to four years and fines of IDR800,000,000.00 (setor rupiah) and IDR8,000,000,000.00 (eight billion rupiah).⁹

The government has also introduced legislation to amend the Narcotics and Narcotics Rehabilitation law, stating that sentences should be based on the severity of the crime and the amount of drugs used in the crime. The law also regulates the use of drug tests to determine the level of drug addiction. Drug tests are conducted by a drug test team consisting of a drug test team and a drug test.

Restorative Justice is the process of rehabilitating individuals who have not been convicted, involving the participation of the defendant, jury, and other parties to ensure that the rights of individuals are upheld and they can continue to lead fulfilling lives.¹⁰ Rehabilitation as a new form of justice is increasingly being adopted by countries such as Indonesia, where the concept of rehabilitation is based on the principles of universal justice. Rehabilitation is seen as a way to improve the quality of life of individuals, rather than as a criminal justice system. It is also seen as a non-criminal justice model that can be used to promote rehabilitation efforts, both in demand and replication. The concept of rehabilitation is based on the concept of

⁹ Bayu Puji Hariyanto, "Pencegahan Dan Pemberantasan Peredaran Narkoba Di Indonesia," *Jurnal Daulat Hukum* 1, No. 1 (2018).

¹⁰ Henny Saida Flora, "Keadilan Restoratif Sebagai Alternatif Dalam Penyelesaian Tindak Pidana Dan Pengaruhnya Dalam Sistem Peradilan Pidana Di Indonesia," *University Of Bengkulu Law Journal* 3, No. 2 (2018): 142-58.

rehabilitation as a form of justice, which is similar to the concept of rehabilitation as a form of justice. Rehabilitation is also seen as a way to integrate the health and legal systems, ensuring that individuals are treated fairly and effectively.

The role of the National Narcotics Board of Gorontalo Province in organizing rehabilitation only seeks to provide recovery, not cure. The recovery of drug abusers is not guaranteed by the National Narcotics Board so the effort to recover by the abusers themselves needs to be serious. In addition, assistance from family and community is expected to provide benefits in the process of healing from the addiction suffered by drug abusers.

The Sub Coordinator of Rehabilitation of BNNP Gorontalo added that the rehabilitation process to date has shown that BNN is serious about rehabilitation efforts. However, rehabilitation does not guarantee that the person concerned will recover, but only recover. The recovery in question is in a situational condition. Abusers can relapse at any time depending on the endurance of the abuser. There are those who after being rehabilitated can last 3 to 4 years, there are those who have stopped consuming narcotics for 10 years, but because of the temptation of friends, the abusers consume again. Some are only a matter of months because they are unable to resist the temptation to finally consume again. So it all depends on the rehabilitation client. BNN only encourages drug abusers not to use drugs again.¹¹

Regarding the importance of rehabilitation for drug abusers, the Sub Coordinator of Rehabilitation of BNNP Gorontalo explained that rehabilitation is very necessary because drug abusers are people who are sick. The illness attacks the central nervous system. It will definitely affect physically and psychologically. So if they are not rehabilitated, there can be psychological disturbances, which will certainly affect their physical condition.

The explanation from the Sub Coordinator of Rehabilitation of BNNP Gorontalo, the author concludes that not all narcotics abusers can be said to have committed a crime. Some of them need rehabilitation because they are sick people. Action for people who are sick is certainly not prison but efforts to cure it through rehabilitation. The government must be observant of the existing problems related to drug abusers so that the placement of solutions is also appropriate so as to provide benefits for drug abusers. Government action as the right solution has a positive impact on the program to overcome the problem of drug abuse in Indonesia, especially in Gorontalo.

The implementation of rehabilitation has not had a comprehensive impact within 3 (three) years. This is indicated by the existence of drug abusers who still abuse drugs after rehabilitation measures have been taken against these drug abusers. From the available data, it shows that within 3 years, namely 2020, 2021 and 2022, there were

¹¹ Inka Dewi Liani Ahri, "Pelaksanaan Rehabilitasi Bagi Penyalahguna Narkoba Di Badan Narkotika Nasional Kota Palopo" (Institut Agama Islam Negeri (Iain) Palopo, 2023).

579 patients who had undergone rehabilitation, but of the 579 who were rehabilitated, not all experienced recovery, there were 27 former rehabilitation patients who continued to reuse narcotics. Of the 27 former rehabilitation patients, the type of drug used is methamphetamine.

Seeing the data above, 27 former rehabilitation patients reused narcotics, someone who has used and abused narcotics must be rehabilitated according to Narcotics Law No. 35 of 2009 article 54. A person undergoing rehabilitation gets 2 (two) opportunities to undergo rehabilitation, after undergoing rehabilitation more than 2 (two) times, for the 3rd (third) time it has been transferred to a criminal case.

The concept of rehabilitation regulated in Article 55 paragraph (2) of the Narcotics Law, this article emphasizes that narcotics addicts who are of legal age are obliged to report themselves or be reported by themselves or reported by their families to community health centers, hospitals, and medical rehabilitation or social rehabilitation institutions appointed by the government to receive treatment or care through medical rehabilitation and social rehabilitation. If an adult narcotics addict or his/her family self-reports to a government-appointed rehabilitation facility for treatment or care, there are advantages to be gained. The advantage is that the addict has a very high probability of not being criminally prosecuted if caught by the authorities. However, the condition is that before the arrest occurs, the addict is or has been 2 (two) times undergoing medical treatment. The reason for not prosecuting the addict is strictly regulated in article 128 paragraph (3) of the Narcotics Law.

Looking at this data, there are drug abusers who still consume narcotics due to the addiction that is still inherent in the abuser even though the rehabilitation process has been carried out on them. This proves that optimizing the benefits of rehabilitation needs effective steps. If rehabilitation cannot be shown to be a souteive measure for drug prevention, it is necessary to review the application of restorative justice through rehabilitation for drug abusers. Reconstruction related to rehabilitation both regarding the application and the rehabilitation system so that the purpose of rehabilitation for drug abusers can be maximally felt so that the number of drug crimes will decrease because the drug business will reap small profits.

The Sub Coordinator of Rehabilitation of BNNP Gorontalo explained that there are still former rehabilitation patients who still use drugs. After the National Narcotics Board of Gorontalo Province provides rehabilitation services to drug abusers, they are then returned to their families, but drug abusers still consume drugs again because they are often invited by their peers to consume drugs again. Former patients who used drugs were 27 patients who were rehabilitated. The data was obtained through the process of arrest and recognition of former patients who voluntarily came to BNNP Gorontalo to be rehabilitated for using drugs.

The Sub Coordinator of Rehabilitation of BNNP Gorontalo also explained that rehabilitation of narcotics abusers is intended for all people in Gorontalo Province who need rehabilitation so that anyone who is already addicted or abuses narcotics can contact and can go directly to the National Narcotics Agency of Gorontalo Province. The National Narcotics Board of Gorontalo Province is ready to provide excellent service for the people of Gorontalo Province who need rehabilitation.

The government program on the prevention and eradication of drug abuse and illicit trafficking (P4GN), led by BNN, clearly states how to fight abuse and how to fight trafficking. Fighting abuse is done by preventing and rehabilitating, namely:

- a. Prevention targets people who have not had problems with drugs so that they do not become drug abusers,
- b. Prevention with the target of abusers by rehabilitating so as not to become drug addicts, and
- c. Prevention with the target of addicts by rehabilitating them so that they are not exposed to the adverse effects of drug abuse, namely HIV-AIDS, and other associated diseases.

The Sub Coordinator of Rehabilitation of BNNP Gorontalo explained that the institutions that play a role in the rehabilitation process are BNN, which is authorized by Law Number 35 of 2009 concerning Narcotics, which is in charge of preparing and facilitating, then the Ministry of Health, which has many health facilities such as hospitals and health centers. These two institutions play a special role in medical rehabilitation. Regarding social rehabilitation, the institutions that play a role are the Ministry of Social Affairs at the central level, and the Health Office and District / City and Provincial Offices.

From the explanation above, the author can illustrate that there are three institutions that play an important role in the implementation of rehabilitation, namely the Ministry of Health, the National Narcotics Agency, and the Ministry of Social Affairs. The three institutions have their respective roles that need each other in order to save people from narcotics addiction. The author also believes that synergy between the three institutions is needed.

Article 70 of Law No. 35/2009 on Narcotics describes the duties of the National Narcotics Agency as follows:

- a. formulating and implementing national policies on the prevention and eradication of abuse and illicit trafficking of Narcotics and Narcotic Precursors;
- b. prevent and eradicate the abuse and illicit trafficking of Narcotics and Narcotic Precursors;
- c. coordinate with the Chief of the Indonesian National Police in the prevention and eradication of abuse and illicit trafficking of Narcotics and Narcotic Precursors;

- d. improve the ability of medical rehabilitation and social rehabilitation institutions for drug addicts, both organized by the government and the community;
- e. empowering the community in the prevention of abuse and illicit trafficking of Narcotics and Narcotic Precursors;
- f. monitor, direct, and improve community activities in the prevention of abuse and illicit trafficking of Narcotics and Narcotic Precursors;
- g. conduct bilateral and multilateral cooperation, both regionally and internationally, to prevent and eradicate illicit trafficking in Narcotics and Narcotic Precursors;
- h. developing narcotics and precursor laboratories;
- i. carry out administration of investigations and investigations into cases of abuse and illicit trafficking of Narcotics and Narcotics Precursors; and
- j. Make an annual report on the implementation of duties and authorities.

The Ministry of Health also plays an important role alongside the National Narcotics Agency. The Ministry of Health oversees hospitals that specialize in rehabilitation. Each drug rehabilitation hospital has a special program for victims of narcotics, addictive substances and psychotropic substances. Treatment programs are aimed at drug users. The goal is to treat dependence and cure diseases resulting from drug use, as well as to stop drug use. Not just anyone can treat drug users. Drug use is often followed by the introduction of dangerous diseases and mental and moral disorders. Treatment must be done by doctors who study drugs specifically.

Drug addiction therapy and rehabilitation is a long-term program designed with a comprehensive set of treatment stages. The process starts from pre-treatment, where identification and crisis intervention is done to prepare for the patient's admission into the program. Orientation and detoxification are important initial steps, followed by treatment of comorbidities that may be related to medical or psychiatric problems. After that, the patient enters the primary care phase, which includes therapy for the patient and his/her family, education, recreation, spiritual aspects, and holistic health care that emphasizes self-awareness and continuous evaluation.

Following on from primary care is secondary care, which goes deeper into counseling for patients and families, adding recreation and education, as well as spiritual aspects and health support. At this stage, peer support, vocational rehabilitation, and relapse prevention strategies are emphasized to ensure that patients can return to social life with better adaptability. Aftercare aims to sustain the patient's recovery, anticipate and address potential relapses, and ensure the patient's healthy and productive reintegration into society.

4. Factors that Impede the Implementation of Restorative Justice through Rehabilitation of Drug Abusers at the Gorontalo Provincial BNN

The successful achievement of the goal of rehabilitation of drug abusers is inseparable from law enforcement of Law Number 35 of 2009 concerning Narcotics. If law enforcement of Law Number 35 of 2009 concerning Narcotics, which regulates rehabilitation, is carried out properly, then the implementation of rehabilitation will also be effective.

Lawrence M. Friedman argues that the effectiveness and success of law enforcement depends on three elements of the legal system, namely the structure of law, the substance of the law and legal culture. The legal structure concerns law enforcement apparatus, legal substance includes legislation and legal culture is a living law adopted in a society. By looking at the understanding of M. Friedman's theory, we can conclude that the three elements of the law must work together so that the law made to uphold justice can run effectively, and justice is felt by the people governed by the law itself.¹²

According to Soerjono Soekanto, the main problem of law enforcement actually lies in the factors that may affect it. These factors have a neutral meaning, so that the positive or negative impact lies in the content of these factors, as follows:

1. The legal factors themselves, which in this paper will be limited to the law.
2. Law enforcement factors, namely the parties who form and apply the law.
3. Facility factors or facilities that support law enforcement.
4. Community factors, namely the environment in which the law applies or is applied.
5. Cultural factors, namely as a result of work, creation, and taste based on human spirit in the association of life.¹³

The five factors are closely interrelated, because it is the essence of law enforcement, it is also a benchmark of the effectiveness of law enforcement.

Law enforcement of the Narcotics Law, especially regarding rehabilitation, is influenced by factors that affect the legal system according to the theory of Lawrence M. Friedman, namely legal substance, legal structure, and legal culture.

¹² Didi Hilman Dan Latifah Ratnawaty, "Membangun Moral Berkeadilan Dalam Penegakan Hukum Di Indonesia," *Yustisi* 4, No. 1 (2017): 59-59.

¹³ Andrew Shandy Utama, "Kepercayaan Masyarakat Terhadap Penegakan Hukum Di Indonesia," *Jurnal Ensiklopedia Social Review* 1, No. 3 (2019): 306-13.

Factors that hinder the implementation of rehabilitation for drug abusers in Gorontalo Province when connected to Lawrence M. Friedman's legal system theory that affects law enforcement of Law Number 35 of 2009 concerning Narcotics, especially regarding the enforcement of the implementation of restorative justice through rehabilitation for drug abusers, can be described as follows:

1. Substance of the law

There is a dilemma in the application of the law for drug abusers based on Law Number 35 of 2009 concerning narcotics, which reads in 111 paragraph (1) and 112 paragraph (1):

Article 111 paragraph 1

Every person who without the right or against the law plants, maintains, possesses, stores, controls, or provides Class I Narcotics in the form of plants, shall be punished with imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years and a fine of at least Rp800,000,000.00 (eight hundred million rupiah) and a maximum of Rp8,000,000,000.00 (eight billion rupiah).

Article 112 paragraph (1)

Every person who without the right or unlawfully possesses, stores, controls, or provides Narcotics Group I not plants, shall be punished with imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years and a fine of at least Rp800,000,000.00 (eight hundred million rupiah) and a maximum of Rp8,000,000,000.00 (eight billion rupiah).

The two norms above instruct law enforcers to impose imprisonment or fines for drug abusers, including victims of drug abuse because victims of drug abuse also possess, store or control drugs.

On the other hand, there is an order to apply the law of rehabilitation for drug abusers in accordance with Law Number 35 of 2009 in Article 54 and Article 103 paragraph (1) which reads:

Article 54

Narcotics addicts and victims of narcotics abuse must undergo medical rehabilitation and social rehabilitation.

Article 103 paragraph (1)

Judges who hear cases of drug addicts may:

- a. decides to order the person concerned to undergo treatment and/or care through rehabilitation if the Narcotics Addict is found guilty of committing a Narcotics crime; or

- b. Stipulates to order the person concerned to undergo treatment and/or care through rehabilitation if the Narcotics Addict is not proven guilty of committing a Narcotics crime.

As an effort to respond to ensure legal certainty, the Supreme Court issued Circular Letter No. 04/2010 on Placement of Narcotics Abusers, Victims of Abuse and Addicts into Medical Rehabilitation and Social Rehabilitation Institutions as a revision of Supreme Court Circular Letter No. 07/2009 on Placing Narcotics Abusers into Therapy and Rehabilitation Institutions. The enactment of Supreme Court Circular Letter No. 35/2009 has provided a classification of drug abusers to whom rehabilitation will be applied, both medical rehabilitation and social rehabilitation.

Article 54 of Law No. 35/2009 has made rehabilitation mandatory for drug abusers. However, this obligation is not accompanied by the threat of criminal sanctions so that the implementation of Article 54 does not provide a strict obligation for drug abusers to rehabilitate.

2. Structure of law

The legal structures related to rehabilitation, both medical rehabilitation and social rehabilitation,¹⁴ are the National Narcotics Agency, the Ministry of Health, and the Ministry of Social Affairs where there are facilities and infrastructure at the National Narcotics Agency, especially BNNP Gorontalo. BNNP Gorontalo has not been able to provide adequate facilities and infrastructure and there are still facilities and infrastructure that are not in accordance with standards.

Inadequate facilities and infrastructure at BNNP Gorontalo depart from the lack of budget for BNNP Gorontalo which results in a representative clinic that has not been owned by BNNP Gorontalo. Currently there is only an office that does not meet the standards to replace the representative clinic. In addition to the clinic, the laboratory and rehabilitation center are also not yet owned by BNNP Gorontalo.

In addition to infrastructure, human resources at BNNP Gorontalo still need a lot of attention for effective rehabilitation in Gorontalo Province. The human resources available at BNNP Gorontalo, namely from the element of doctors there are only contract lecturers, psychologists only consist of 2 people, the number of nurses and analysts and nutritionists is still lacking.

3. Legal Culture

¹⁴ Fauzi Rizky, "Pelaksanaan Rehabilitasi Terhadap Pecandu, Penyalahguna Dan Korban Narkotika," *Riau Law Journal* 1, No. 1 (2017): 103-23.

In addition to the influence of legal substance and legal structure, the effectiveness of rehabilitation of drug abusers is also influenced by culture.¹⁵ The participation of the community, family and also the drug abusers themselves also affect the effectiveness of rehabilitation. The existence of negative stigma from the community, less than optimal assistance from the family, and rehabilitation patients who do not have strong determination and mutual influence to continue using drugs in social interactions are the causes of rehabilitation carried out by BNNP Gorontalo, the Ministry of Health and the Ministry of Social Affairs is still ineffective, resulting in drug abusers who have been rehabilitated both medical rehabilitation and social rehabilitation still re-consuming drugs.

The author can describe the factors that hinder the implementation of rehabilitation consisting of internal and external factors as follows:

1. Internal Factors

- a. Rehabilitation patients do not have a strong will to recover

Strong determination in an effort to cure oneself from drug addiction is needed. The government has attempted the rehabilitation program as much as possible, but if there is no determination of the patient concerned, the recovery from addiction is not obtained.¹⁶ Rehabilitation patients in Gorontalo Province do not have a strong determination to recover. Although they have recovered from drugs after rehabilitation, they still interact with peers who can tempt them to use drugs again. In addition, rehabilitation patients tend not to be committed and consistent with the schedule so that the results of rehabilitation become ineffective.

- b. A sense of addiction that has not disappeared after rehabilitation

After the rehabilitation process, there are patients who still have a dependency to use drugs.

2. External Factors

- a. No threat of criminal sanctions

Article 54 of Law No. 35/2009 has made rehabilitation mandatory for drug abusers. However, this obligation is not accompanied by the threat of criminal sanctions so that the implementation of Article 54 does not provide a strict obligation for drug abusers to rehabilitate.¹⁷

¹⁵ Laksa Bayu Bahaduri Dan Vinita Susanti, "Analisis Kebijakan Pemberantasan Narkotika Di Indonesia Dalam Perspektif Kriminologi," *Ikra-Ith Humaniora: Jurnal Sosial Dan Humaniora* 6, No. 2 (2022): 104-11.

¹⁶ Annisa Rachman dan Ishlakhatu Sa'idah, "Perilaku Kompulsif Remaja Pengguna NAPZA (Studi Kasus di Lembaga Rehabilitasi Narkotika Ghana Recovery)," *DA'WA: Jurnal Bimbingan Penyuluhan & Konseling Islam* 3, no. 2 (2024): 38-53.

¹⁷ Maysarah Maysarah, "Pemenuhan Hak Asasi Manusia Dalam Pelaksanaan Rehabilitasi Berdasarkan Undang-Undang No. 35 Tahun 2009 Tentang Narkotika," *SOSEK: Jurnal Sosial dan Ekonomi* 1, no. 1 (2020): 52-61.

b. Inadequate facilities and infrastructure and human resources

Inadequate facilities and infrastructure at BNNP Gorontalo depart from the lack of budget for BNNP Gorontalo which results in a representative clinic that has not been owned by BNNP Gorontalo. Currently there is only an office that does not meet the standards to replace the representative clinic. In addition to the clinic, the laboratory and rehabilitation center are also not yet owned by BNNP Gorontalo.

In addition to infrastructure, human resources at BNNP Gorontalo still need a lot of attention for effective rehabilitation in Gorontalo Province. The human resources available at BNNP Gorontalo, namely from the element of doctors there are only contract lecturers, psychologists only consist of 2 people, the number of nurses and analysts and nutritionists is still lacking.

c. Negative stigma from society

There is a negative stigma from the community towards drug abusers so that the community does not provide support to rehabilitation patients. People who use drugs are people who have committed crimes or people who have committed very bad actions. This stigma does not have a good impact on the enthusiasm of rehabilitation patients to obtain recovery from drug addiction.

d. Lack of support from family

Lack of support from family can also be a barrier for rehabilitation patients. Drug rehabilitation patients often face difficulties in getting support from their families, who may not understand or refuse to support their recovery process. This lack of support can reduce the patient's motivation and enthusiasm for trying to recover from drug dependence.

e. An environment of mutual influence

Interaction between drug users still occurs in the community, including with patients who have undergone rehabilitation. This also affects the purpose of implementing rehabilitation not being realized properly.

The factors that hamper the effectiveness of rehabilitation that have been described by the researchers above certainly need to get more attention from the government as the front guard of handling drug abuse both from the aspects of prevention and control. The government is expected to provide solutions including solutions to the facilities and infrastructure needed by the National Narcotics Agency, especially BNNP Gorontalo and other institutions that are inadequate.

Rehabilitation for drug abusers in the future is expected to be more effective and provide benefits for the eradication of drug abuse in Indonesia, especially in Gorontalo Province so as to realize drug-free generations and become a support for making Indonesia a developed country that has a society free from drug abuse.

5. Conclusion

Restorative justice through rehabilitation at BNN Gorontalo Province has not been effective, marked by the presence of patients who still abuse drugs again. Internal factors such as the lack of determination of patients and external factors such as the availability of facilities and infrastructure, as well as negative stigma from the community, are the main obstacles. Improved facilities and social support are needed to increase the effectiveness of rehabilitation programs.

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