

and suspects has the potential to cause overcapacity in Correctional Institutions (Lapas). The impacts of this excess capacity include a decline in the health and psychological well-being of inmates, increased conflict between them, and a decrease in the effectiveness of supervision by officers due to an imbalance between the number of guards and inmates. In addition, the increasing number of narcotics-related detainees could worsen the narcotics market situation in prisons. In fact, the main function of prisons is to shape prisoners into productive individuals, both during their sentence and after they return to society, as well as to support successful development. The police as a law enforcement agency also issued Police Regulation Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice, as one of the steps in resolving criminal cases. This regulation was issued by the Police as part of law enforcement efforts to create a resolution of criminal acts through the Restorative Justice approach, which emphasizes restoring the original state and building a balance to protect the interests of both perpetrators and victims, and does not only focus on punishment.

THEORETICAL BASIS

Legal Certainty Theory

Certainty is a matter (condition) that is certain, provisions or stipulations. Law must essentially be certain and fair. Certain and fair because the guidelines must uphold an order that is considered reasonable. Law can only function effectively if it is fair and implemented with certainty. Certainty and justice are not merely moral demands, but are essential characteristics of the law itself. Uncertain and unjust laws are not only bad laws, but cannot be categorized as laws at all. These two characteristics are part of the basic understanding of law (den begriff des Rechts). Law consists of a collection of regulations or rules that regulate life together and can be enforced through sanctions. Legal certainty is an element that cannot be separated from law, especially for written legal norms. Without legal certainty, law loses its meaning because it no longer functions as a guideline for behavior for society. As the Latin proverb says, *Ubi Jus Icertum, Ibi Jus nullum* - where there is no legal certainty, there is no law.

Legal Utility Theory

Legal Utility Theory is a concept within the realm of legal philosophy and jurisprudence that applies economic principles to the law. It suggests that the law, legal institutions, and legal decisions should aim to maximize the overall "utility" or well-being of society. The theory draws on the idea of utility from economics, which refers to the satisfaction or benefit derived from a particular action or decision. In this case, the theory proposes that legal rules, decisions, and practices should be structured in a way that promotes the greatest benefit or well-being for the largest number of people. Legal Utility Theory combines ideas from economics and moral philosophy to argue that the law should aim to produce the greatest good for the greatest number. It focuses on the efficiency and social utility of legal rules and decisions, but also faces challenges related to balancing individual rights with collective well-being and the difficulty of measuring societal utility in a precise way.

RESEARCH METHODS

Research design

This type of research is empirical socio-legal or juridical research. This research relies on field data as the main data source, such as interview results and observations. This empirical research aims to analyze the law by looking at community behavior in the context of social interaction and community relations. This research is called socio-legal because it focuses on resolving drug abuse crimes through a restorative justice approach. The research was conducted at East Java Province, to evaluate the application of the restorative justice approach in handling drug cases in the area.

Research approach

In this research, using a research approach Juridical-Sociological approach, which focuses on the identification and conception of law as a real and functional social institution in the system of everyday life. This approach emphasizes data quality, requiring researchers to determine, sort, and select relevant and quality data or materials for research. In other words, researchers must be able to distinguish between significant and less relevant data to ensure that the research provides an accurate and in-depth picture of the topic being studied.

Population and Sample

The population in this study was all members of the Police in the Directorate of Drug Investigation of the East Java Regional Police. This includes all individuals in the unit, who have similarities in terms of position and function related to handling narcotics. The research sample was taken from this population and selected based on a certain sampling technique. In this study, the sampling technique used was Purposive Sampling. The respondents in this study were members of the Directorate of Drug Investigation of the East Java Regional Police who were selected as samples. These respondents will provide information through interviews related to the investigation process and the implementation of restorative justice in handling narcotics abuse crimes. So, in this study, the respondents were members of the Police who had been determined based on the purposive sampling technique, which means they were selected because of their relevance to the research topic. Data collection was carried out through interviews to obtain in-depth information regarding practices and policies at the East Java Regional Police Narcotics Research Directorate. Respondents are people who provide information or can also be sources of data in a study. Respondents in this study include, Head of Unit III Sub-Directorate II, Intermediate Investigator, and Head of the National Police Department of the East Java Regional Narcotics Police Research Directorate.

Data Analysis

In this study, data analysis using a qualitative descriptive. This method involved explained and presented data based on the quality of information relevant to the research problem.

RESULTS AND DISCUSSION

Circular Letter of the Chief of Police Number SE/8/VII/2018 concerning the Implementation of Restorative Justice in the Settlement of Criminal Cases

The concept of restorative justice, which is an approach to handling certain crimes, involves collaboration from various interested parties to jointly find solutions and overcome the impacts that may arise in the future. As part of the criminal justice subsystem in Indonesia, the police have the responsibility as an investigation team at the investigation stage, tasked with collecting information and designing strategies to catch perpetrators of crimes. In this context, the police are expected to provide more detailed information to expand the scope of the investigation in order to solve a case. The police are a government agency that participates in implementing the implementation of restorative justice, of course, they have an important role in law enforcement, where in handling a case they not only focus on the value of legal certainty in eradicating criminal acts, but also consider the value of justice and the principles of law that develop in society through preventive activities such as preventing criminal acts, realizing security, order and justice for the welfare of human life in society. Therefore, it is hoped that the police as law enforcement officers can reduce the number of narcotics distribution that occurs.

The Police Agency through Circular Letter Number SE/8/VII/2018 concerning the Implementation of Restorative Justice in the Settlement of Criminal Cases will be used as a guideline for Police Investigators and Investigators to conduct investigations or inquiries that include guarantees in legal protection and also supervision, control and application of the concept of restorative justice in the investigation and investigation of criminal acts in order to create public interest and a sense of justice in society, so that this can create a uniform understanding in the implementation of restorative justice in the Police environment. Special requirements for Drug Crimes are regulated in Article 9 of Police Regulation Number 8 of 2021 which explains that:

- a. "Drug Addicts and Victims of Drug Abuse who apply for rehabilitation;"
- b. "When caught red-handed, evidence of (one) day's use of Drugs is found in accordance with the provisions of laws and regulations; and no evidence of Drug Crimes is found, but the urine test results show positive for Drugs;"
- c. "Not involved in a Drug Crime network, dealer and/or dealer;"
- d. "An assessment has been carried out by an integrated assessment team; and"
- e. "The perpetrator is willing to cooperate with the Police investigators to conduct further investigations."

With the addition of these special requirements in the application of restorative justice to drug cases, the police will take additional steps to determine whether the perpetrator or victim can participate in a rehabilitation program or whether the case will continue to be processed through conventional legal channels. If a case involving a perpetrator or victim meets the requirements for restorative justice, the police will follow the mechanisms set out in the legislation to continue the process. The following is the flow of restorative justice implementation at the investigation stage of narcotics crimes:

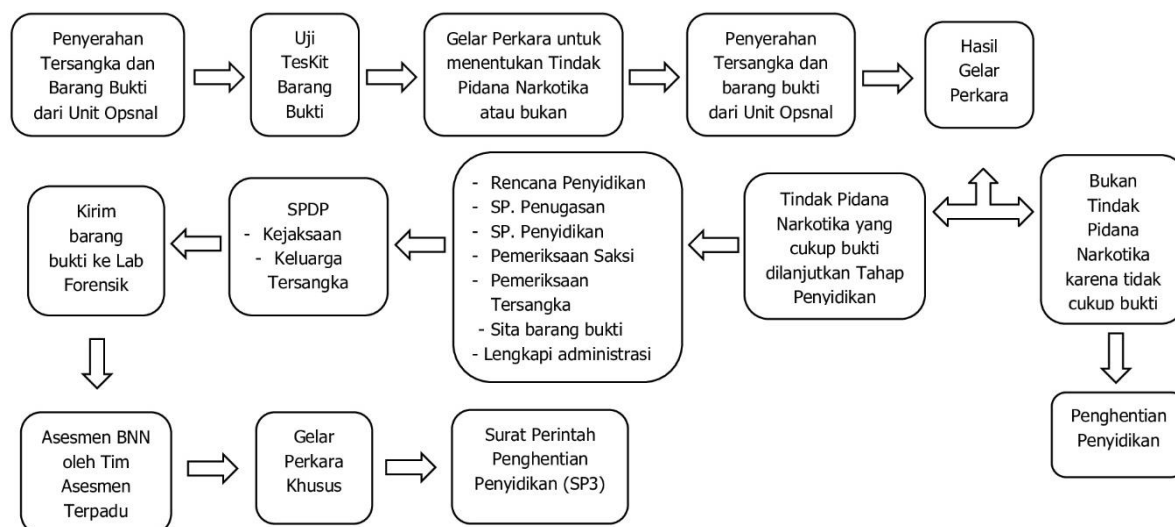


Figure 1. Flow of Restorative justice Implementation at the Investigation Stage of Narcotics Crimes

Investigators considerations in resolving narcotics abuse crimes through a Restorative Justice Approach in East Java Province

Based on Pasal 66 paragraph (2) of the Regulation of the Chief of Police Number 12 of 2009 concerning Supervision and Control of Handling of Criminal Cases within the Indonesian National Police in order to obtain preliminary evidence, a case conference is conducted.” “A case conference is one of a series of investigative activities if referring to Article 15 of the Regulation of the Chief of Police Number 14 of 2012 concerning Management of Criminal Investigations, which aims as follows:”

1. Strengthening the elements in the articles imposed;
2. A place of communication between investigators and investigators within the scope of police officers (internal)
3. In order to achieve efficiency and completion in handling cases.

A regular case conference in handling this case is conducted at the beginning of the investigation process which aims to:

1. Determine the status of a criminal case or not;
2. Formulate an investigation plan;
3. Determine the elements of the articles that are suspected;
4. Determine sanctions, suspects, and evidence;
5. Determining time targets;
6. Implementation of investigative techniques and tactics.

The purpose of the examination here is to seek information from witnesses and suspects. In the examination of witnesses at the Malang City Police, it is carried out on the investigator who made the arrest, this is because the investigator also witnessed the crime committed in the case of being caught red-handed. Meanwhile, if there is no examination of the reporter and informant because it is to protect their safety. The examination of witnesses is written in the case file which is included in the examination report. The rights of suspects at the examination level according to Pasal 54 of the Criminal Procedure Code state that for the sake of defense they have the right to receive legal assistance either from a legal aid institution appointed by the investigator or choose themselves.

When the suspect is examined, the suspect's right is to be accompanied by his legal counsel in accordance with the power of attorney that has been made and included in the case file. The substance of the examination in material terms is related to the narcotics crime that is suspected of him and the validation of the evidence found. Investigators also re-examine the process of being caught red-handed and the reasons for the suspect committing the act to ensure the suspect's position. Investigators in examining suspects must make a report that will be included in the case file. Mid-stage Regular Case Title, authorized investigators who have obtained a series of information through examination of witnesses and suspects will then hold a mid-stage case title. In this mid-stage

case title, the investigator will determine the eligibility of submitting a letter of application for assessment to the BNN. The assessment of the suspect is entirely up to the police (discretion), whether the suspect meets the requirements to be submitted for assessment as a step towards restorative justice or not. Assessment Process by the Integrated Assessment Team (TAT), The Joint Regulation of the Chief Justice of the Supreme Court states the definition of the Integrated Assessment Team which is a team consisting of a team of doctors and a legal team from the National Narcotics Agency, Provincial National Narcotics Agency, Regency/City National Narcotics Agency.

Investigator Strategy in Handling Drug Abuse Through Restorative Justice Approach in East Java Province

The strategy implemented by investigators in handling narcotics cases is to prioritize resolution through a restorative justice approach. It is important for investigators to pay attention to the compliance of the implementation of restorative justice with the provisions of Police Regulation Number 8 of 2021. This includes an understanding of the procedures regulated and the requirements that must be met in resolving narcotics abuse cases restoratively. Investigators must also pay attention to obstacles that may arise in the implementation of restorative justice, both experienced by investigators and by perpetrators of narcotics abuse. Regarding the termination of the investigation carried out at a special case conference based on Pasal 109 paragraph (2) of the Criminal Procedure Code which states: "In the event that the investigator stops the investigation because there is insufficient evidence or the incident turns out not to be a criminal act or the investigation is stopped by law", based on the Pasal above, it can be understood that there are three reasons for stopping the investigation, including;

1. There is insufficient evidence;
2. The incident is not a criminal act;
3. Stopped by law.

If the reason for stopping the investigation in a narcotics case uses reasons number one and two, it is certainly not right. This is because before undergoing rehabilitation, the suspect must be legally proven to have committed the crime of drug abuse, with evidence including urine tests and adequate evidence. The third reason, namely "by law", basically refers to the failure to fulfill the provisions of criminal law. The phrase "stopped by law" in Pasal 109 paragraph (2) of the Criminal Procedure Code in the third point has varying interpretations, but if referring to the two points above, "by law" in this context refers to criminal law. Termination of investigation into narcotics crimes is a step based on Police Regulation Number 8 of 2021, which originates from the rehabilitation provisions in the Narcotics Law. In narcotics cases, suspects who meet the requirements can undergo rehabilitation without detention, in accordance with Article 54 of the Narcotics Law. The restorative justice system for criminal acts in Indonesia has not been specifically regulated, so there are still inconsistencies in its implementation.

The application of restorative justice to drug abusers by investigators, as regulated by Police Regulation Number 8 of 2021, creates a legal basis for a more rehabilitative approach. However, advocates explain that in addition to being based on laws and regulations, there also needs to be consideration based on other aspects. In handling cases of drug abusers, additional considerations need to be applied. Advocates explain that looking at the initial chronological conditions of why the perpetrator became a drug addict is important, including psychological conditions and factors that cause drug use. Based on the advocate's opinion, the importance of understanding the chronology of this event is to open up insight into the perpetrator's motivation in using narcotics. Did the perpetrator fall into it because of the desire to experiment, the influence of the environment, or even because of pressure from others. Looking deeper into the psychological condition of the perpetrator is also key, because these factors can provide a better understanding of how the rehabilitation process can be tailored to the individual's needs.

Drug abusers are often not only seen as lawbreakers, but as individuals who may be trapped in a circle of drug use due to several events, such as the availability of drugs or the influence of their social environment. Therefore, advocates argue that an inclusive approach that takes into account the perpetrator's background will be more effective in achieving true restorative justice. Rehabilitative approaches through rehabilitation institutions are considered more appropriate to address drug addiction problems than imprisonment. Therefore, intensive community outreach and education are needed. This program can involve government agencies and community organizations to provide comprehensive information about restorative justice and the benefits of a rehabilitative approach through rehabilitation institutions.

The police have an important role in efforts to combat drug abuse, including in mitigating obstacles that arise due to the lack of knowledge of drug abusers about rehabilitation and restorative justice. The police can improve education and outreach to the general public, especially drug abusers, about restorative justice and the

various rehabilitation options available. By providing clear and accurate information, the police can help change drug abusers' perceptions about the rehabilitation process, encourage them to seek help earlier, and reduce uncertainty about restorative justice. In addition, the police can collaborate more closely with rehabilitation institutions and non-governmental organizations that focus on drug prevention. By building this collaboration, the police can ensure that information about rehabilitation and restorative justice is effectively delivered to drug abusers. More integrated and collaborative rehabilitation programs between the police, rehabilitation institutions, and related parties can create a more supportive environment for drug abusers to understand, accept, and undergo the process of change necessary for their recovery.

CONCLUSION

Based on the results of the research and discussion adjusted to the formulation of the problem as described, the author can draw 2 (two) conclusions as follows, the implementation of restorative justice refers to Police Regulation Number 8 of 2021 concerning Handling of Criminal Acts with a Restorative Justice Approach. If the requirements for restorative justice have been met and there are no obstacles in its implementation, the investigator will stop the investigation based on restorative justice. The investigator's considerations in handling drug abuse crimes based on the restorative justice approach are based on the following series of activities: Initial Stage Regular Case Title, Examination, Mid-Stage Regular Case Title, Assessment Process by the Integrated Assessment Team, Special Case Title in order to terminate the investigation.

Strategies as an effort to overcome several obstacles in the implementation of restorative justice for Drug Abuse Crimes at the Malang City Police, namely: due to the limited time for submitting the Integrated Assessment, efforts are made to improve the quality and quantity of investigators, so as to maximize the implementation of restorative justice in narcotics crimes at the Malang City Police, regarding the lack of cooperation between perpetrators and Malang City Police investigators for further investigations, investigators can take a humanist approach and effective communication to overcome the uncertainty and reluctance of perpetrators to provide accurate information, regarding the lack of knowledge and understanding of rehabilitation based on restorative justice policies, the Police can improve education and counseling programs for the community and drug abusers regarding restorative justice and the benefits of a rehabilitative approach through rehabilitation institutions.

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