

Implementation of The Prosecutor's Authority in The Implementation of Justice for Victims of Narcotics Abuse According to Positive Law

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Abstract

Narcotics pose a global issue that jeopardizes public order and endangers both physical and mental well-being. Narcotics usage in Indonesia has evolved into a multifaceted issue with extensive ramifications, encompassing legal, social, psychological, and humanitarian dimensions. This study aims to evaluate the prosecutor's authority in implementing restorative justice for victims of narcotics misuse, in accordance with statutory legislation. The employed methodology is a qualitative descriptive approach. Data was acquired through comprehensive surveys and conversations with prosecutors regarding the execution of their powers. What is the function of the prosecutor's office within the criminal justice system concerning positive law? Describing Narcotics Abuse Cases through Restorative Justice by the Prosecutor's Office The Restorative Justice Approach serves as an application of the Prosecutor's Dominus Litis Principle, allowing the Prosecutor's Office the discretion to cease prosecution of narcotics abuse suspects, thereby fostering a justice system that prioritizes rehabilitation over mere criminalization.

I. Introduction

Currently, the prevalence of narcotics has emerged as an issue for numerous individuals and organizations across various nations. Narcotics can obliterate personality, jeopardize the spirit and body, and perhaps undermine the future of civilization due to their inherent risks (Hakim, 2005). Law Number 35 of 2009 about Narcotics stipulates that these illicit substances may induce alterations in consciousness, impair sensory perception, alleviate or remove discomfort, and perhaps lead to dependence (Makaro et al., 2003). The abuse of narcotics in Indonesia has evolved into a multifaceted issue with extensive ramifications, encompassing legal, social, psychological, and humanitarian dimensions.

Data from the National Narcotics Agency (BNN), as outlined in Article 2 of Government Regulation of the Republic of Indonesia Number 83 of 2007, indicates that the World Drug Report by UNODC reveals a notable rise in narcotics abuse among individuals aged 15-24, increasing from 1.44% in 2021 to 1.52% in 2024, warranting significant concern in our nation (BNN, 2020). BNN has disclosed 27 drugs syndicate networks, comprising 13 national and 14 international networks, with a cumulative total of 618 narcotics crime cases. BNN possesses information on 363 individuals included in the Person Search List. In total, BNN seized narcotics evidence comprising 710,980.59 grams of methamphetamine, 2,178,034.61 grams of marijuana, 1,077.69 grams of synthetic marijuana, 290,737.23 grains, 138,404.29 grams of ecstasy, 2,760 grams of heroin, 4,335.34 grams of cocaine, 971,000 grains, 2,800 grams of PCC, and 1,300 ml of narcotics precursor liquid (2004 Press Release).

The Prosecutor's Office, as an institution vested with the authority to prosecute criminal offenses, serves as a fundamental component of law enforcement in Indonesia (Supriadi, 2006). The law enforcement activities conducted by the Prosecutor's Office concerning criminal offenses (Anwar & Adang, 2009) are primarily aimed at upholding the rule of law to protect and enforce human rights, which constitutes a core responsibility of law enforcement (Hartanti, 2005).

The Prosecutor's Office possesses the competence to ascertain the admissibility of a case for submission to the Court based on credible evidence in accordance with the Criminal Procedure Law (Megoondo, 2022). The principle of *dominus litis* governs the Prosecutor's Office and can halt prosecution, alongside the principle of opportunity in addressing criminal offenses, particularly drugs crimes, especially concerning offenders of narcotics misuse, as stipulated by the Law (Hiarej, 2016). Law Number 11 of 2021 regarding the Prosecutor's Office mandates the establishment of a feeling of justice for the community, as delineated in Law Number 35 of 2009 concerning Narcotics, henceforth referred to as the Narcotics Law.

In Indonesia, positive law, particularly the Prosecutor's Law, delineates the authority of the Prosecutor's Office to implement rehabilitation initiatives for narcotics abuse suspects via a restorative justice framework, as articulated in the Narcotics Law, Attorney General's Guideline Number 18 of 2021 regarding the resolution of narcotics abuse cases through rehabilitation with a restorative justice approach, and Regulation of the Prosecutor's Office of the Republic of Indonesia Number 15 of 2020 concerning the cessation of prosecutions based on restorative justice.

The resolution of narcotics abuse offenses via restorative justice is governed by the Attorney General's Regulation (Perja) Number 15 of 2020, specifically in Article 5, paragraph (8), letter c, and Article 4 of the Attorney General's Guideline Regulation Number 18 of 2021, which pertains to the resolution of narcotics abuse cases through rehabilitation utilizing a restorative justice approach, as mandated by the *Dominus Litis* Principle for prosecutors. The rule stipulates that narcotics crime cases may be exempt from prosecution within a restorative justice framework by rehabilitating alleged narcotics users in treatment facilities.

2. Research Method

The employed methodology is a qualitative descriptive approach. The data was derived from survey findings and comprehensive interviews with prosecutors regarding the execution of their powers. What is the function of the prosecutor's office within the criminal justice system according to positive law? How to articulate the instance of narcotics usage utilizing restorative justice by the prosecutor's office.

3. Results and Discussion

The Authority of the Prosecutor's Office in the Implementation of *Restorative Justice* According to Positive Law

The role of the Prosecutor's Office within the Indonesian constitutional framework has experienced multiple alterations, both institutionally and in its regulatory structure (Mahendra, 2012). The Prosecutor's Office's role within the Indonesian constitutional framework is legally defined in Article 1, paragraph 1, of the Prosecutor's Law, which identifies it as a governmental entity tasked with functions of judicial authority, executing state power in prosecution, and other legally prescribed responsibilities. The Prosecutor's Office plays a vital role in implementing restorative justice, a relatively novel concept within various models and procedures of the criminal justice system, aimed at addressing contemporary criminal cases. Restorative justice is regarded as a more compassionate approach to punishment, in contrast to the retributive justice commonly employed today. Restorative initiatives encompass not just victims and offenders but also the community (Purba, 2025).

Prof. Mahfud, M.D., asserts that restorative justice represents an extension of the justice idea through an alternative methodology. Criminal activities are perceived as a societal affliction requiring remedy, rather than merely as violations of legal statutes. The crime is seen as the *ultimum remedium* (Nola, 2014).

The Role of the Prosecutor's Office in the Criminal Justice System in Positive Law

In Indonesia, law enforcement is intricately linked to the criminal justice system, which functions as a mechanism of power that upholds the law (Reksodiputro, 2017). Romli Atasasmitta posits that the criminal justice system, as a mechanism of law enforcement, encompasses legal dimensions that emphasize the implementation of laws and regulations to combat crime and attain legal certainty (Atasasmitta, 2010).

In Indonesia, Law Number 8 of 1981 regarding the Criminal Procedure Code (KUHP) serves as a fundamental framework for the operations of the criminal justice system, utilized by law enforcement agencies, including the Police, the Prosecutor's Office, Courts, Correctional Institutions, and Legal Advisors. The Criminal Procedure Code, as a component of the legal framework, significantly impacts the operation of the criminal justice system; it is unlikely that the current deficiencies in the Criminal Justice System would harm the system.

Moreover, the author asserts that the jurisdiction of the Prosecutor's Office regarding

prosecution is governed by legislation, namely Law Number 8 of 1981 pertaining to the Criminal Procedure Law and Law 11 of 2021 addressing the Prosecutor's Office of the Republic of Indonesia. Moreover, Article 2 designates the Prosecutor's Office of the Republic of Indonesia, a governmental entity, as the body responsible for exercising state power in the realm of prosecution. The authority of prosecution is executed autonomously, and in fulfilling its duties, the Prosecutor's Office operates as a singular entity rather than as different divisions (Sari, 2018).

Description of Narcotics Abuse Cases with *Restorative Justice* by the Prosecutor's Office

In 2025, the Pagar Alam District Prosecutor's Office effectively managed nine cases of narcotics misuse through restorative justice, with the author (Fitriyani, 2025) examining only one case. On Wednesday, March 5, 2025, at approximately 13:00 WIB, Mr. Yuko (DPO) telephoned the defendant to ascertain the defendant's location. She asserted that he would visit the defendant's residence situated in Belumai RT.008, RW.003, Kel. At approximately 14:00 WIB, Mr. Yuko arrived at the defendant's residence, where the defendant invited him to an adjacent unfinished house to use narcotics. Subsequently, Mr. Yuko produced one roll of marijuana-type narcotics. He smoked it with the defendant, after which Mr. Yuko constructed a Shabu (bong) apparatus and jointly consumed the substance with the defendant by placing the shabu into a glass pipe and igniting it with a lighter, inhaling the resulting smoke from the apparatus until it resembled cigarette smoke.

Subsequently, the police apprehended the defendant and promptly conducted a search, observed by the witness Aan Firinsya Bin M. Aki, which yielded evidence in the form of: One package of Shabu-type narcotics encased in clear plastic, weighing 0.40 grams; one small package of cannabis-type narcotics wrapped in newspaper, weighing 1 gram; one roll of Norkotika-type cannabis wrapped in paper, weighing 0.23 grams; one piece of Marlboro Filter Black brand cigarettes; four headless gas lighters; one leftover plastic clip; one VIVO Y 12S mobile phone in Glacier Blue, with SIM card number 0895-1780-0310, IMEI number 1: 6603-5805-3244-516, and IMEI number 2: 8683-5805-3244-508; one Toreador brand paper ball; and one Shabu suction device (bong) found in the defendant's right hand, which had been used in conjunction with Mr. Yuko. The defendant, Ega Julius Bin Erpan, along with the collected evidence, was sent to the Pagar Alam Police for further investigation.

The suspect's acts violated Article 112, Paragraph (1), Article 111, Paragraph (1), and Article 127, Paragraph (1), letter a, of Law Number 35 of 2009 regarding Narcotics. The Pagar Alam District Prosecutor's Office filed the suspect's case file to the Head of the South Sumatra High Prosecutor's Office, c.q. The General Crime Assistant requests the pursuit of alternative legal measures, specifically restorative justice, and the Head of the South Sumatra High Prosecutor's Office has approved the suspect's file for restorative justice. The primary objective of the law is to achieve justice; consequently, the Pagar Alam Prosecutor's Office, as an institution endowed with prosecutorial authority, must manifest the State's presence to establish order and justice in the public sphere, notably through legal remedies such as restorative justice.

As per the Prosecutor's Facilitator of the Prosecutor's Office (Interview with Dhuan Pratita

Rachman, S.H., Facilitator Prosecutor of the Pagar Alam District Attorney's Office, on April 24, 2025), narcotics abuse constitutes a predominant case, with the majority of victims being individuals lacking agency, rather than dealers. The issue with Law Number 35 of 2009, which exacerbates criminal activities related to drugs usage, is that users, transaction participants, suppliers, and others are individuals in excellent health, rather than those who are ill. Narcotics abuse, as defined in Article 1, Number 15 of Law Number 35 of 2009 about Narcotics, refers to an individual who utilizes narcotics unlawfully or without authorization.

The suspect is charged with the criminal offense of narcotics abuse, as stipulated in Article 112 Paragraph (1), Article 111 Paragraph (1), or Article 127 Paragraph (1) letter an of Law Number 35 of 2009 of the Republic of Indonesia concerning Narcotics. The potential penalties include a minimum imprisonment of four years and a maximum of twelve years, along with fines ranging from a minimum of Rp.800,000,000.00 (eight hundred million rupiah) to a maximum of Rp.8,000,000,000.00 (eight billion rupiah), in accordance with the Attorney General's Regulation Number 15 of 2020 regarding the Termination of Prosecution Based on Restorative Justice. The implementation of restorative justice to address drugs abuse situations, exemplified by the suspect Ega Julius Bin Erpan, aligns with progressive legal theory as articulated by Satjipto Rahardjo (Rahardjo, 2007), asserting that restorative justice It exerts a significant and deep influence, affirming that the law serves humanity, rather than humanity serving the law.

Implementation of the Prosecutor's Authority in Applying *Restorative Justice in Narcotics Abuse Cases*

Law enforcement in criminal cases in Indonesia has evolved from a retributive approach, characterized by retaliation for legal infractions, to a more progressive methodology. Modifications in law enforcement are essential to achieve legal objectives, especially considering the rapid evolution of society, which necessitates adaptations to the legal framework (Sagama, 2016). Satjipto Rahardjo's notion of progressive law highlights the importance of acknowledging societal values in the development of legal frameworks (Santika, 2021).

The Prosecutor's Office must execute the law regarding abuse using a restorative justice framework, following the Prosecutor's Regulation of the Republic of Indonesia Number 15 of 2002 on the Termination of Prosecution Based on Restorative Justice. Restorative justice is the resolution of criminal cases that engages perpetrators, victims, and other relevant parties in collaboratively pursuing an equitable settlement, focusing on the restoration of the original state.

The application of restorative justice for resolving narcotics-related offenses at the Pagar Alam District Attorney's Office serves to ensure protection and justice for the wider community. The Attorney General's Office has extensively advocated for the implementation of restorative justice. It has been adopted in the court process throughout many District Attorney's Offices in Indonesia, notably the Pagar Alam District Attorney's Office. The Attorney General issued Guideline Number 18 of 2021 for resolving narcotics abuse criminal cases through rehabilitation, employing a restorative justice approach, as outlined in the Prosecutor's Dominus Litis principle in Chapter IV. The public prosecutor must address the crime

of narcotics misuse via rehabilitation employing a Restorative Justice framework. Pipuk Firman Priyadi, S.H., M.H., contends that the Attorney General's Guideline Number 18 of 2021 about the Resolution of Narcotics Cases is significant. Abuse Cases can accommodate a change in the legal paradigm from originally retributive to restorative.

In summary, the management of narcotics misuse cases via restorative justice by the Pagar Alam District Attorney's Office is governed by the Prosecutor's Regulation of the Republic of Indonesia No. 15 of 2020 and the Attorney General's Guideline No. 18 of 2021. The Pagar Alam District Attorney's Office manages narcotics abuse cases through restorative justice under the Attorney General's Regulation of the Republic of Indonesia Number 15 of 2020 and the Attorney General's Guideline Number 18 of 2021, ensuring that the rights of suspects are preserved and that the process is conducted without coercion from any party.

4. Conclusion

The Prosecutor's Office possesses the evident authority to implement restorative justice for victims of opioid misuse. This authority is explicitly governed by Law Number 11 of 2021 regarding the Prosecutor's Office, Law Number 35 of 2009 concerning Narcotics, Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020 on the Termination of Prosecution Based on Restorative Justice, and Attorney General's Guideline Number 18 of 2021 on the Resolution of Narcotics Abuse Cases through Rehabilitation utilizing a Restorative Justice Approach. The principle of *Dominus Litis* Prosecutors allows the Prosecutor's Office to cease prosecution of narcotics abuse suspects, aiming for a justice system that prioritizes recovery through rehabilitation rather than mere criminalization. This approach is a strategic measure to restore the social and psychological well-being of victims.

References

- National Narcotics Agency (2021). Press Release at the End of 2020: BNN's Firm Attitude, Realizing a Drug-Free Indonesia, accessed from <https://bnn.go.id/press-release-akhir-tahun2020/>, accessed on April 2, 2021, at 12.10 WIB.
- Daniel Christopel Purba (2025). The Role of the Prosecutor's Office in Realizing Restorative Violence in the Crime of Prostitution. *Journal of Rectum* Volume: 7, Number: 1, (2025), January : 79 – 88 <http://dx.doi.org/10.46930/jurnalrectum.v7i1.5328>
- Eddy Hiariej (2016). *Principles of Criminal Law*, Yogyakarta, Cahaya Atma Pusaka.
- Evi Hartanti (2005). *The Crime of Corruption*, Jakarta: Sinar Grafika.
- Gita Santika (2021). "The Role of the Prosecutor's Office in Realizing Restorative Justice as an Effort to Combat Crime," *Progressive: Legal Journal* 16, No. 1 (2021): p. 87, <https://doi.org/https://doi.org/10.33019/progresif.v16i1.1898>.

- Henny Yunita Fitriyani, S.H. (2025). Primary Prosecutor of the Pagar Alam District Attorney's Office, Personal Interview, April 14, 2025, 10.00-11.00
<https://www.google.com/search?q=undangundang+kejaksaan+terbaru&oq=undangundang+keja&aqs=chrome.0.69i57j0i512l3j0i22i30l5.8043j0j15&sourceid=chrome&ie=UTF-8>
- Luthy Febrika Nola (2014). Restorative Justice for Child Crimes, Legal Brief, Vol. VI, No. 17/I/P3DI/September/2014
- M. Areif Haqim (2005). The Dangers of Alcohol Drugs: How Islam Prevents, Overcomes, and Fights, Bandung: Nuansa.
- Mardjono Reksodiputro (2017). *Reconstruction of the Indonesian Criminal Justice System*. LEX SPECIALIS Journal, Vol. 11.
- Moh. Taufik Makaro, Suhasril and Moh. Zakky (2003). "Narcotics Crime", Ghalia Indonesia, Jakarta.
- Nani Widya Sari (2018). The authority of the Prosecutor's Office in law enforcement of corruption crimes is linked to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. *Surya Kencana Dua Journal: The Dynamics of Legal and Justice Issues*, Vol. 4, No. 2, 2018
- Government Regulation of the Republic of Indonesia Number 83 of 2007 concerning the National Narcotics Agency, the Provincial Narcotics Agency, and the Regency/City Narcotics Agency.
- Pipuk Firman Priyadi, S.H., M.H. (2025). Deputy Head of the South Sumatra High Prosecutor's Office, Personal Interview, April 13, 2025, 09.00-10.00
- Romli Atasasmita (2010). *Contemporary Criminal Justice System*, Jakarta: Kencana Prenada Media Group.
- Satjipto Rahardjo (2007). *Let the Law Flow, Critical Notes on Human Struggle and Law*, Jakarta: Kompas Book Publishers.
- PERS Broadcast in (2024): Strengthening Strategies and Collaborative Actions in P4GN Jakarta, December 23.
- Sri Odit Megoondo (2022). *Reconstruction of Regulations for the Termination of Prosecution of Narcotics Addicts in the Framework of Restorative Justice Based on Pancasila Justice Values*, Dissertation, Doctoral Program in Law, Faculty of Law, Sultan Agung Islamic University of Semarang.
- Supriadi (2006). *Ethics & Responsibility of the Legal Profession in Indonesia*, Jakarta: Sinar Grafika.
- Suwardi Sagama (2016). "Analysis of the Concept of Justice, Legal Certainty and Utility in Environmental Management," *Journal of Mazahib* 15, No. 1 (2016): p. 36, <https://doi.org/http://dx.doi.org/10.21093/mj.v15i1.590>.
- Interview with Dhuan Pratita Rachman, S.H. (2025), as the Facilitator Prosecutor of the Pagar Alam District Attorney's Office, on April 24, 2025
- Yesmil Anwar & Adang (2009). *Criminal Justice System: Concept, Components, and Implementation in Law Enforcement in Indonesia*. Bandung: Widya Padjadjaran.
- Yusril Ihza Mahendra (2012). *The Position of the Attorney General and the Position of the Attorney General in the Presidential System Under the 1945 Constitution*, Kencana Prenada Media Group, Jakarta.

