The Double Track System Application Effectiveness Against Addicts And Drug Abusers In Purbalingga Regency

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Abstract
Narcotics is a great crime that significantly impacts the country, especially the nation's generation. Based on Narcotics Law Number 35 of 2009 concerning Narcotics, Narcotics are divided into three types: Narcotics, Psychotropics, and other addictive substances. The settlement of narcotics crimes is not only imprisonment but there are sanctions for rehabilitation measures for the category of narcotics users, namely addicts and narcotics abusers who are not narcotics dealers or couriers. This research aims to benefit the general public as a reference for written works after this and can provide solutions to existing problems. This study uses a normative juridical method with interviews with related parties. Researchers get results research that during 2020 there were addicts and narcotics abusers arrested in conditions that BNN Purbalingga Regency and Police Investigators arrested 30 people. Then an Integrated Assessment Test (TAT) was held by BNN. Of the 30 people, only two were ordered for rehabilitation, and the other 28 were only in prison. The results of the (TAT) are not used as a consideration to rehabilitate the suspect because the judge also sees the facts in court. This research aims to rehabilitate the suspect because the judge also sees the facts in court. There is no phrase "possessing, controlling, storing, or providing narcotics" that should be borne by the party who becomes the dealer, dealer, or courier. However, these phrases are often applied to drug abusers or addicts, causing almost 70% of prisons or correctional institutions in Indonesia to be filled with drug offenders and causing new problems in prisons. There are overcapacity and drug transactions in detention centers or prisons.

Keywords: Narcotics, Double Track System, Addict, and Narcotic Abuser


Kata kunci: Narkotika, Double Track System, Pecandu dan Penyalahguna Narkotika

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I. Introduction

Narcotics crime is an extraordinary crime, which means it is a crime that has a tremendous and multi-dimensional impact on social, cultural, economic, and political as well as the negative impact caused by crime. Based on Narcotics Law Number 35 of 2009 concerning Narcotics, Narcotics are divided into three types: Narcotics, Psychotropics, and other addictive substances. In the settlement of narcotics crimes for the addicts and abusers, there is the idea of a Double Track System that demands equality between criminal sanctions and action sanctions. And this can be applied to narcotics abusers so that the deterrent effect and the healing process of the narcotics criminals can run, so for the perpetrator's narcotics crime and with this process carried out, it will be able to recover from dependence on the use of narcotics and be a deterrent because of criminal sanctions.

Based on 2 (two) different decisions, namely Decision Number: 126/Pid.Sus/2019/ PN Pbg and Number: 67/Pid.Sus/2020/PN Pbg where the first decision was indicted by the Public Prosecutor on the charge of Alternative Subsidiary, First Primary Article 114 paragraph (1) of RI Law Number 35 of 2009 concerning Narcotics, Subsidiary Article 112 paragraph (1) of RI Law Number 35 of 2009 concerning Narcotics or Second Article 127 paragraph (1) of RI Law Number 35 of 2009 concerning Narcotics and the second decision were indicted by the Public Prosecutor on the primary subsidence charge: Article 112 paragraph (1) of RI Law Number 35 of 2009 concerning Narcotics subsidiary: Article 127 paragraph (1) of RI Law Number 35 of 2009 concerning Narcotics. The two decisions Article 127 paragraph (1) of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics are fulfilled, the defendant must be declared to have been proven legally and convincingly based on the legal facts revealed in court, has committed a crime "WITHOUT THE RIGHT TO ABUSE NARCOTICS CLASS I FOR SELF." Based on the Integrated Assessment Test (TAT) results, they get rehabilitation rights that can be given according to a court decision. However, only the defendants in Decision Number: 126/Pid.Sus/2019/PN Pbg were ordered to undergo outpatient medical rehabilitation at the BNN Primary Clinic in Purbalingga Regency while Decision Number: 67/Pid.Sus/2020/PN Pbg was not ordered to undergo rehabilitation. In this case, the judge has not fully implemented the Double Track System to decide cases of addicts and narcotics abusers. At the same time, addicts and narcotics abusers are not only aspects of imprisonment but should get rehabilitation to treat themselves from drug addiction and unhealthy psychological conditions. Based on the background described above, the author will carefully describe the problem in the title "The Double Track System Application Effectiveness Against Addictives And Drug Abusers In Purbalingga Regency."

II. Research Problems

Based on the study by paying attention to these topics, the formulation of the problem can be drawn as follows:
1. How is the implementation of the Double Track System for criminals against narcotics addicts and abusers?
2. What are the barriers to implementing the Double Track System against drug addicts and abusers?

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III. Research Methods

The type of research in this study uses a normative legal research type, which means that research is carried out to collect and analyze secondary data. Researchers use research methods in the form of normative juridical. Meanwhile, research using the normative juridical method is a legal research library conducted by examining library materials or secondary data. Sources of data in this study in the form of secondary data, including primary legal materials consisting of related laws such as Law no. 35 of 2009 concerning Narcotics and SEMA No. 4 of 2010 concerning Placement of Abuse, Victims of Abuse and Narcotics Addicts into Medical Rehabilitation and Social Rehabilitation Institutions, then there are secondary legal materials in the form of draft laws and regulations, the results of scholarly scientific works, research results, journals, and so on, and tertiary legal materials to support primary legal materials and secondary legal materials. The data sources other than secondary data are identification and clarification of legal facts with research subjects and sources such as interviews. The data source is then recorded via video or audio, and photos are taken and then described in a description. The literature study technique is a data collection type that is not addressed directly to the research subject. The libraries or documents studied can be of various kinds, not only official documents. They can be in the form of diaries, personal letters, reports, meeting minutes, case notes in social work, and other documents. Then the researcher uses the Purposive Sampling technique, where the method of determining the sample is by selecting specific samples that are judged to be under the objectives or research problems in a population. The legal materials obtained in this research are literature studies, laws, government regulations, journals, opinions of scholars, and legal cases related to this research. Qualitative data analysis is qualitative data analysis, namely, data that cannot be measured directly by numbers. So, after the primary and secondary data in the form of documents are obtained wholly, they are analyzed with regulations relating to the problem under study.

IV. Research Results And Discussion

1. How is the implementation of the Double Track System criminal against addicts and narcotics abusers

According to Law Number 35 of 2009 Narcotics, applying sanctions related to narcotics will be subject to criminal sanctions. However, concerning Narcotics is not only criminal for addicts and victims of narcotics abusers, based on Article 127 of the Law of the Republic of Indonesia Number 35 of 2009. However, it will also be subject to medical and social obligations, where the rehabilitation period will be calculated as serving a sentence. Meanwhile, narcotics abuse is a public health problem that involves human biological and physical needs, psychosocial demands, cognitive and spiritual fulfillment, and formulation environment. Therefore, cross-disciplinary research using different methodologies and designs is urgently needed to examine substance abuse concerning its etiology, maintenance,

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4 Peter Mahmud Marzuki, Penelitian Hukum, (Jakarta : Kencana, 2005), 25.
6 Suteki, Galang Taufan, Metode Penelitian Hukum (Filsafat,Teori dan Praktik) (Depok: Rajawali Press, 2018), 216.
consequences, abstinence, and relapse. However, not all of them received rehabilitation because it was also regulated in SEMA Number 4 of 2010 concerning Placement of Abuse, Victims of Abuse, and Narcotics Addicts into Medical Rehabilitation and Social Rehabilitation Institutions. Before rehabilitation, narcotics addicts and abusers must undergo the Integrated Assessment Test (TAT) organized by BNN as a rehabilitation recommendation to judges and are classified as defendants arrested by Polri Investigators and BNN in a condition of being caught red-handed.

Medical rehabilitation and social rehabilitation efforts are included in Article 54 of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics intended for narcotics addicts and victims of narcotics abuse. The definition of medical rehabilitation and social rehabilitation contained in the Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics is:

1. Medical rehabilitation is a process of integrated treatment activities to free addicts from narcotics dependence; and
2. Social rehabilitation is a process of integrated recovery activities, both physically, mentally, and socially, so that former narcotics addicts can return to carrying out their social functions in community life.

Based on data obtained from the Purbalingga Regency BNN throughout 2020, 30 addicts and narcotics abusers were caught in an Operation Catch Hand condition, one of which was from the Purbalingga BNN 29 others from the National Police Investigator. The Integrated Assessment Test (Tim Asesmen Terpadu, TAT) was carried out. Then of the 30 people, 2 of them received rehabilitation in court decisions.

**Table 1. Data on the Implementation of TAT at BNN Purbalingga Regency in 2020**

<table>
<thead>
<tr>
<th>No.</th>
<th>Date Implementation</th>
<th>Amount of person</th>
<th>Date Implementation</th>
<th>Amount of person</th>
<th>Date Implementation</th>
<th>Amount of person</th>
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Source: BNNK Purbalingga

From the results of an interview with Mr. Awan Pratama, S.IP., as the BNN Rehabilitation Counselor in Purbalingga Regency, the rehabilitation that applies at the BNN Pratama Clinic Purbalingga Regency focuses on outpatient care for the asymptomatic and counseling system. Symptomatic is the administration of drugs based on the patient's complaints. The patient will be given drugs or vitamins according to the patient's complaints and not a substitution or tapering off (reduction of dose). Then if the result of the TAT recommendation is that the legal process continues, it gets during the legal process.

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Rehabilitation rights and declare themselves willing to carry out outpatient rehabilitation services at the BNN Pratama Clinic in Purbalingga Regency, after which the Counselor and Assistant Counselor will prepare a Rehabilitation Therapy Plan. So the technical rehabilitation also adjusts the status of the suspect. Suppose the suspect has been transferred to the Prosecutor's Office P21. In that case, the obligation to take the suspect from the Purbalingga Rutan to take him to the BNN Primary Clinic in Purbalingga Regency until he returns to the Detention Center is the responsibility of the Prosecutor's Office and Investigators. However, if the suspect's status is still not P21, the one who will take the suspect to the BNN Primary Clinic in Purbalingga Regency is the Police Investigator. In terms of costs for serving a maximum of 8 (eight) meetings, the costs are borne by the state through the Purbalingga Regency BNN budget. Then if there is a loss during detention at the detention center, it will be handled first by the medical team from the detention center with Standard Operating Procedures (SOP) at the detention center if necessary, the BNN will contact the Purbalingga Regency BNN to come to the detention center, or the detention center will escort the suspect to BNN.

This process is emphasized in Article 9 paragraph (3) of the Joint Regulation of the Chief Justice of the Supreme Court, Minister of Law and Human Rights, Minister of Health, Minister of Social Affairs, Attorney General, National Police Chief, Head of BNN on Handling Narcotics Addicts and Victims of Narcotics Abuse in Rehabilitation Institutions in the implementation of the assessment. And analysis is carried out by the legal team in charge of analyzing with illicit trafficking of narcotics and narcotics precursors and narcotics abuse in coordination with investigators handling cases, then a team of doctors in charge of conducting medical, psychosocial assessments and analyzing and recommending plans for therapy and rehabilitation for narcotics abusers.

The technical acceptance of addicts and narcotics abusers in the rehabilitation program that has been decided by the court and has permanent legal force is regulated in the Regulation of the Minister of Health of the Republic of Indonesia Number 46 of 2012 concerning Technical Instructions for the Implementation of Medical Rehabilitation for Addicts, Abusers, and Victims of Narcotics Abuse in Process or What Has Been Decided By The Court, namely:

1. Addicts, Abusers, and Victims of Narcotics Abuse who have received a court ruling or decision that has the permanent legal force to undergo treatment and/or treatment through rehabilitation are submitted by the prosecutor's office to a designated medical rehabilitation facility, and an official report of the court decision/decision is made signed by the prosecutor's office. The patient in question and the health worker who received the patient, by attaching:
   a. A copy/excerpt of a court order or court decision that has permanent legal force; and
   b. A statement of ability from the patient to undergo medical rehabilitation according to the therapy plan set by the IRMT Assessment Team and to follow the program that applies to the rehabilitation institution in question. This statement of commitment must be signed by the patient and family/guardian.

2. The submission is made during the designated Hospital Administrative Working Hours, and there is a Minutes signed by the prosecutor's office, the patient in question, and the health worker who received the patient.

3. Implementation of the medical rehabilitation program based on a court decision/decision and then adjusting to the applicable program at the medical rehabilitation institution in question.

The researcher took a sample of the results of the 2019 Integrated Assessment Test (Tes Asesmen Terpadu, TAT), which was submitted as a recommendation to get rehabilitation to the judge, then in the verdict number: 126/Pid.Sus/2019/PN Pbg decided to order rehabilitation at the BNN Pratama Clinic, Purbalingga Regency. By considering the psychiatry aspect in question, care and treatment can be provided through outpatient rehabilitation.
services at the BNN Pratama Clinic, Purbalingga Regency, in the ongoing legal process. When the judge's decision has been made that the convict is ordered outpatient at the BNN Purbalingga Regency Pratama Clinic, the responsibility will shift to the Rutan's responsibility to take the convict to the Purbalingga Regency BNN. However, the person concerned is still experiencing psychological disorders with withdrawal syndrome in the form of hallucinations, thus requiring inpatient rehabilitation therapy. Finally, after completing his criminal sentence, the Purbalingga Regency BNN refers the convict in question to the Social Rehabilitation Center for Victims of Narcotics Abuse Satria located in Baturaden.

The purpose of the rehabilitation is so that addicts and abusers are free from their dependence on narcotics consumption. Because placing them in prison will not make them free from dependence on narcotics, it will cause new problems such as narcotics transactions in prisons or detention centers. They are physically imprisoned, but their psychological condition and addiction are not treated, so they are still in a state of dependence where their body still wants narcotics intake, and they need rehabilitation to overcome this addiction condition. So, the rehabilitation process becomes essential to do to overcome this situation.

2. Barriers to the Implementation of the Double Track System Against Drug Addicts and Abusers

The Double Track System is a two-track system regarding sanctions in criminal law, namely the type of criminal sanction from one party and the type of action sanction on the other. Both stem from different ideas. Criminal sanctions are based on the basic idea: "why is there a punishment." Meanwhile, action sanctions start from the basic idea: "what is the punishment for?" In other words, criminal sanctions are reactive to an act, while action sanctions are more anticipatory towards the perpetrator of the act. The focus of criminal sanctions is more aimed at wrongdoing someone has done through the imposition of suffering so that the person concerned becomes a deterrent. The focus of action sanctions is more focused on efforts to help the perpetrator so that he changes. In this case, the application of the Double Track System for narcotics crimes with the category of addicts and abusers does not only focus on criminal sanctions but also focuses on action sanctions where medical and social rehabilitation is carried out with a health approach to addicts and narcotics abusers whose aim is to become dependent on narcotics. Can be treated and re-socialized and well received by the community.

The obstacle to the existence of the Double Track System from the BNN in Purbalingga Regency is that technically taking prisoners/convicts to BNN and bringing them back to the detention center to undergo detention is considered less effective because of the risks when traveling. Then when you are in detention, BNN must go to the detention center first. Then addicts and narcotics abusers with the same demands, the judge has not fully implemented the Double Track System in deciding the case. It is because the judge is not only based on the results of my TAT but also looks at the facts in court on whether rehabilitation is necessary or not. However, when the suspect is not subjected to an Integrated Assessment Test (TAT) for a recommendation to do rehabilitation, the facts at trial show that rehabilitation is needed, and the judge will order the suspect in question to be rehabilitated. Judges in deciding narcotics cases are a little hesitant with the words "owning," "carrying," and "using" because the 3 (three) verbs mentioned in RI Law Number 35 of 2009 concerning Narcotics have different penalties and are not explained in detail. Detail the meaning and purpose of the verb. For example, when the suspect is caught while buying narcotics class I and then tested, the urine results show negative for narcotic substances. So, the alleged article was not directed at Article 127 of the Republic of Indonesia Law Number 35 of 2009 concerning

Narcotics but articles 111-114 of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics.

This element of the phrase "possessing, controlling, storing or providing narcotics" should be applied to parties who are dealers, dealers, or couriers. However, these words are often applied to narcotics abusers or addicts, causing nearly 70% of Indonesia's prisons to be filled by perpetrators of narcotics cases. Not a few of them are narcotics abusers or addicts, which should not be where they are based on RI Law Number 35 of 2009 concerning Narcotics. The purpose of the law is certainty, protection, and benefit. So if you look at the phrases of Articles 111, 112, 113, and 114, which contain the phrase "possessing, storing, controlling or providing narcotics," there is uncertainty in the rules of this article. As in the pleidoi (defense) and the consideration of the supreme judge in his decision, stating the phrase "possessing, keeping, controlling" must be interpreted to gain profit from possessing, storing, and controlling the narcotics. When viewed from 2 (two) sides, namely from the side of protection, the abusers or addicts who should be protected are distinguished by the articles imposed on them, but in practice, they are often not protected because they are subject to articles that are supposed to be for dealers, dealers, or couriers. So, the rights of abusers to be imposed or tried and punished under Article 127, with a rehabilitation sentence or four years maximum in prison, are not obtained by the abusers or narcotics addicts. Then from the side of benefit, if you look at the side of the narcotics abuser or addict, it is clear that there is no benefit at all that the narcotics abuser or addict is put in prison for a long time, namely 4-6 years on average and from the state/government perspective, it is clear that there is no benefit. A new problem has arisen: almost all existing detention centers or correctional institutions have exceeded their capacity because about 60% to 70% are filled by narcotics prisoners/convicts. The state budget of up to trillions is used to feed prisoners/prisoners and build a new prison/detention center, so it is not applicable.13

V. Conclusions and Suggestions

Based on the research results related to the implementation of the Double Track System in Purbalingga Regency, there are several parties involved, including the Purbalingga Regency BNN, Police Investigators, Prosecutors, judges, and judges Rutan Wardens. The sanctions imposed are not only criminal sanctions but also rehabilitation sanctions. To get rehabilitation for narcotics criminals, they must be included in the category of addicts and narcotics abusers, not as dealers, selling, or acting as intermediaries (couriers) when caught red-handed. There are 2 (two) rehabilitation systems, namely outpatient and inpatient. The BNN in Purbalingga Regency only provides outpatient care, while patients who require inpatient care will be referred to the Satria Narcotics Abuse Victims' Social Rehabilitation Institution located in Baturaden.

The obstacle that becomes an obstacle or obstacle in implementing the Double Track System from the Purbalingga Regency BNN itself is the technicality in delivering and returning detainees/inmates to the Detention Center. Then addicts and narcotics abusers with the same demands, the judge has not fully implemented the Double Track System in deciding the case. The judge sees the facts in court whether rehabilitation is necessary or not. Judges in deciding narcotics cases are a little hesitant with the words "owning," "carrying," and "using" because the 3 (three) verbs mentioned in RI Law Number 35 of 2009 concerning Narcotics have different penalties and are not explained in detail. Detail the intent and purpose for what. The purpose of the law is certainty, protection, and benefit. Therefore, the Legal

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Research Method (Philosophy, Theory, and Practice should be the right of abusers to be charged or tried and punished under Article 127 with a rehabilitation sentence or a maximum of 4 years in prison. And clearly, there is no benefit when addicts and narcotics abusers are in an average prison for 4-6 years on average, but dependent and psychological conditions are not treated. That will cause new problems in prisons, namely overcapacity in prisons and narcotics transactions in prisons/detention centers.

References


