

THE CRIMINAL REGULATION ON NARCOTICS ABUSE BASED ON RESTORATIVE JUSTICE ARRANGEMENTS

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Abstract

The drug abuse itself is divided into three categories, namely self-abuse, victims of drug abuse, and drug addicts who do not report. The purpose of this study is to find out about the settlement of narcotics abuse cases using restorative justice which is considered fair and balanced. The approach method used is normative juridical, with the nature of descriptive-analytic research. The results of the research and discussion state that the settlement of narcotics abuse with restorative justice is needed for the value of justice for abusers, but laws and regulations are needed that specifically regulate restorative justice as a legal umbrella for existing regulations in the application of restorative justice for narcotics abuse so as not to cause confusion in its application. This means that settling a narcotics misuse offence through restorative justice cannot occur unless all of the conditions outlined in the regulations are met and all of the parties concerned are in agreement.

Keyword: Abuse; Criminal; Justice; Narcotics; Restorative.

A. INTRODUCTION

The idea of restorative justice is very recent, emerging as a dominant paradigm in contemporary criminal law. After seeing that the existing retributive justice strategy and criminal justice system were falling short of the community's expectations for justice, this idea was conceived as an alternative. Restorative justice, or what is generally known as restorative justice in Indonesia, has been included into a limited area of Indonesian law. Act No. 11 of 2012 Governing the Juvenile Criminal Justice System (often referred to as "diversion") is the sole statutory provision regulating the use of restorative justice in the context of criminal offenses. The Prosecutor's Office Regulation No. 15 of 2020 and the Republic of Indonesia National Police Regulation No. 08 of 2021 have been updated to include regulations pertaining to the restorative justice method in dealing with criminal crimes.¹ The standard procedure for implementing a restorative justice strategy involves getting the offenders and the victim together to reach an agreement about how to go forward. Forgiveness and the quantity of restitution needed to make the victim whole again, meanwhile restorative

¹ Mustika Prabaningrum Kusumawati, Peranan Dan Kedudukan Lembaga Bantuan Hukum Sebagai Access To Justice Bagi Orang Miskin, *Arena Hukum*, Vol. 9, No. 2, 7 November 2016, Page.190-206.

justice should also be observed regarding criminology and the correctional system.²

Restorative justice, as defined by the work of Dr. Sarwirini, SH, MS, is an approach to conflict resolution that aims to both show the offender why their actions were wrong and make amends with the victims.³ As required by the Juvenile Justice Act No. 11 of 2012, restorative justice was initially applied in the resolution of juvenile offences, The concept of restorative justice may refer to an alternative process for solving disputes, to alternative sanctioning options, or to a distinctively different, new model of criminal justice organized.⁴ Restorative justice, as defined in Chapter 1, Article 1, Number 6, is a method of resolving criminal cases that encourages the offender, the victim, and any other affected parties to work together to find a solution that puts an emphasis on making amends rather than punishment.⁵ Moreover, paragraph 1 of Article 5 specifies that a restorative justice approach be given top priority in the juvenile judicial system.⁶

The Supreme Court has ruled that articles 364, 373, 379, 384, 407, and 482 of the Criminal Code, which provide for light prison sentences, can be used to apply the concept of restorative justice in cases of minor crimes with light prison sentences.⁷ Moreover, the concept of rehabilitation through a restorative approach, wherein conditions must be fulfilled and the precautionary principle applied, is necessary to resolve cases of narcotics abuse in light of recent legal developments and demands for justice.⁸

Drug misuse, in its most fundamental form According to Article 1 paragraph 15 of Act No. 35 of 2009 about Narcotics (Narcotics Law), drug abusers are those who partake in illegal drug usage. Individual narcotics abusers can be categorized as either self-abusers, bystanders to other people's narcotics abuse, or secret addicts.⁹

According to Article 127 of the drugs Law, "self-users" are defined as those who use drugs without legal permission or in violation of the law for personal use rather than for resale. According to the clarification of Article

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- 2 Sulbadana, Haniyatul Husna binti Md Mohtar, Andi Intan Purnamasari, and Supriyadi, Does International Law Acknowledge Restorative Justice?, *Sriwijaya Law Review*, Vol. 7, Issue. 1, January (2023), Page.121-134
 - 3 Febriyanti Silaen dan Syawal Amry Siregar, Hubungan Kebijakan Kriminal Dengan Kebijakan Hukum Pidana, *Jurnal Darma Agung*, Vol. 28, No. 1, 20 May 2020, Page.8-16.
 - 4 MahfudJufri, Norbani Binti Mohamed Nazeri, Saroja Dhanapal, Restorative Justice: an Alternative Process for Solving Juvenile Crimes in Indonesia, *Brawijaya Law Journal*, Vol. 6, No. 2, 2019, Page.157-169
 - 5 Sahat Maruli Tua Situmeang, Kebijakan Kriminal Dalam Penegakan Hukum Untuk Mewujudkan Keadilan Dalam Perspektif Hak Asasi Manusia, *Res Nullius Law Journal*, Vol. 1, No. 1, 25 November 2019, Page.26-36.
 - 6 Jimly Asshiddiqie, *Hukum Acara Pengujian Undang-Undang*, Konstitusi pers, Jakarta, 2006, Page.223.
 - 7 M. Ali Zaidan, *Kebijakan Kriminal*, Sinar Grafika (Bumi Aksara), Jakarta, 2016, Page.106.
 - 8 John Kenedi, Kebijakan Kriminal (Criminal Policy) Dalam Negara Hukum Indonesia: Upaya Mensejahterakan Masyarakat (Social Welfare), *AL-IMARAH: Jurnal Pemerintahan dan Politik Islam*, Vol. 2, No. 1, 2017, Page.15-26.
 - 9 Syafar Alim Siregar, Pengedar Narkoba Dalam Hukum Islam, *Jurnal AL-MAQASID: Jurnal Ilmu Kesyaharian Dan Keperdataan* Vol. 5, No. 1, 2019, Page.111–24.

54 of the Narcotics Law, a person who takes narcotics unintentionally because he was persuaded, fooled, compelled, and/or intimidated to use narcotics is a victim of narcotics abuse, according to Article 127 paragraph (3) of the Narcotics Law, abusers narcotics that must be rehabilitated medically and socially are only narcotics abusers who can prove themselves as victims of narcotics abuse.¹⁰ Narcotics According to the rules of Article 1 Number 13 and Article 134 of the Narcotics Law, those who use or misuse drugs and are dependent on them physically and/or psychologically are considered to be addicts who do not report. The information presented in the aforementioned articles makes it very evident that individuals who have been determined to be addicts or narcotics abuse sufferers are the only ones for whom rehabilitation is an option. Meanwhile, its owners and controllers have little chance of recovery. However, those who commit drug crimes must also have access to the drugs they misuse. Because of this, law enforcement officials who are seeking to adopt the appropriate article for drug offenders face misunderstanding.¹¹

The purpose of this study is to find out the resolution of narcotics abuse cases by using restorative justice which is considered fair and balanced, so that it can be formulated for the importance of formulating statutory regulations regarding restorative justice for narcotics abusers for legal certainty.

B. RESEARCH METHODS

This study's legal methodology is analytic descriptive, approach method using normative juridical, normative legal research in Indonesia still tends to be preferred for solving legal problems or cases using deductive reasoning.¹² Restorative justice for narcotics offenses is the subject of normative jurisprudence, which examines how positive law's principles and norms are implemented in practice. Analytical descriptive research tries to paint a picture and examine the facts and relationships of the phenomena being studied in a methodical, factual, and correct way.¹³

C. RESULTS AND DISCUSSION

With the goal of resolving criminal cases involving narcotics abuse through rehabilitation using a restorative justice framework, Attorney General ST Burhanuddin published Attorney General's Guidelines Number 18

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- 10 Adlia Nur Zhafarina, Ola Anisa Ayutama, Identifikasi Bentuk Sanksi Yang Dijatuhkan Hakim Terhadap Penyalahguna Narkotika Bagi Diri Sendiri (Studi Terhadap Putusan Pengadilan Negeri Yogyakarta Dan Pengadilan Negeri Sleman), *Mimbar Hukum*, Vol. 32, No. 3, October 2020, Page.346-364.
 - 11 Rahman Amin, *Hukum Pembuktian Dalam Perkara Pidana Dan Perdata*, Deepublish, Yogyakarta, 2020, Page.183.
 - 12 Tunggul Ansari Setia Negara, Normative Legal Research In Indonesia: Its Origins and Approaches, *Audito Comparative Law Journal*, Vol. 4, Issue. 1, 2023, Page.1-9
 - 13 Eko Murdiyanto, *Metode Penelitian Kualitatif*, 1 ed. Lembaga Penelitian dan Pengabdian Pada Masyarakat UPN "Veteran" Yogyakarta Press, Yogyakarta, 2020, Page.19.

of 2021.¹⁴ With the goal of resolving criminal cases involving narcotics abuse through rehabilitation using a restorative justice framework, Attorney General ST Burhanuddin published Attorney General's Guidelines Number 18 of 2021.¹⁵ The Attorney General's Office said that following the implementation of the rules, numerous victims of drug abuse or drug users were subjected to restorative justice, but cautioned prosecutors against misusing the policy. The discussion on Termination of Prosecution based on restorative justice is essentially an effort to renew or reconstruct the law contained in Act No. 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia as amended by Law No. 11 of 2021 concerning the Attorney General's Office of the Republic of Indonesia to formulate Termination Provisions Based on Restorative Justice.¹⁶

The Indonesian Attorney General's Office, a leading light in humanist policing, believes that the criminal justice system/integrated criminal justice system has failed to develop effective handling because of its tendency to operate independently, leading to punitive law enforcement, characterized by the pursuit of punishment and retaliation.¹⁷ This contributes to the high cost of case management and contributes to the fact that 60% of prisoners in the United States are drug addicts, driving up the occupancy rate of prisons to the point where they are overcrowded. The Attorney General is worried about this, therefore it's clear that something needs to be done. The Attorney General has made it clear that sellers require special care and that drug users do not belong in the same jail facility.¹⁸

The Attorney General's Office emphasized that the implementation of restorative justice for drug users based on Attorney General's Guidelines Number 18 of 2021 was carried out very strictly by considering evidence levels, suspect qualifications, crime and article qualifications, the element of guilt (*mens rea*) in the suspect, and an examination of relevant circumstances. Carefully reviewing the suspect's integrated assessment results.¹⁹ Furthermore, the Public Prosecutor has an additional responsibility to instruct investigators, requiring them to confirm that the suspect is the

14 I. Gusti Ngurah Arya Brahmantara, Anak Agung Sagung Laksmi Dewi, dan Ni Made Sukaryati, Peranan Reserse Kriminal Dalam Mengungkap Tindak Pidana Pencurian Kendaraan Bermotor Di Wilayah Hukum Polsek Ubud, *Jurnal Preferensi Hukum*, Vol. 1, No. 1, 27 Juli 2020, Page.14–20.

15 Sahat Maruli Tua Situmeang, *Op.Cit*, Page.26-36.

16 Herman,etc, Termination of Prosecutions Against Drug Abuses Based on Restorative Justice, *Halu Oleo Legal Research*, Vol. 4, Issue. 2, August 2022, Page. 322-341.

17 Muhammad Mustofa, *Kriminologi: Kajian Sosiologi Terhadap Kriminalitas, Perilaku Menyimpang, dan Pelanggaran Hukum*, Kencana, Jakarta, 2021, Page.90.

18 Bayu Puji Hariyanto, Pencegahan Dan Pemberantasan Peredaran Narkoba Di Indonesia *Jurnal Daulat Hukum*, Vol. 1, No. 1, 2018, Page.201-210.

19 Zul Hendra Hakim dan Syafridatati, Penegakan Hukum Direktorat Reserse Kriminal Khusus Polisi Daerah Sumatera Barat Dalam Tindak Pidana Prostitusi Dengan Menggunakan Media Online, *Abstract of Undergraduate Research, Faculty of Law, Bung Hatta University*, Vol. 13, No. 1, 15 March 2022, Page.1-4.

intended recipient, as well as to become familiar with the suspect's lifestyle, financial dealings, friends, and coworkers (know your suspect).²⁰

Ketut reiterated the statement from Attorney General ST Burhanuddin that no prosecutor should engage in gamesmanship when it comes to the implementation of restorative justice.²¹ This is a "humanizing human program," after all. The Attorney General encourages local governments and law enforcement to work together in setting up rehabilitation homes in every province and district/city, as the AG views perpetrators as victims of narcotics abuse who need serious treatment and as a means to support the implementation of the AG's Guidelines Number 18 of 2021. This is a major initiative for fair and compassionate law enforcement.²²

In accordance with Articles 364, 373, 379, 384, 407, and 483, Articles 364, 373, 379, 384, 407, and 483 of the Criminal Code (KUHP), cases that can be addressed through restorative justice are considered to be minor criminal offenses. The provided legislation is an application of restorative justice in the criminal judicial system, which seeks alternatives to incarceration rather than placing a premium on punishment. According to Article 54 of Law No. 35 of 2009, narcotics addicts and victims of narcotics abuse shall undertake medical and social rehabilitation in prison for a period of no less than three months or as mutually agreed upon by the offender and the victim. Infractions are only subject to monetary fines or the possibility of a jail sentence of no more than 5 (five) years. The stolen property was returned by the suspect to the victim. The perpetrator paid a fine to the victim of IDR 2.5 million. The Indonesian legislative framework for restorative justice It is on the policies of the Supreme Court Regulations and the Supreme Court Circular that restorative justice is applied in Indonesia. The General Courts Agency's Director General issued a decree outlining guidelines for restorative justice on December 22, 2020. Articles 364, 373, 379, 384, 407, and 482 of the Criminal Code (KUHP) establish that the concept of restorative justice may be implemented in cases involving minor offenses carrying a maximum prison sentence of three months and a fine of IDR 2.5 million, the idea of Restorative Justice or better known as Restorative justice is a reaction given by criminal law experts that will appear negative from the application of criminal law which has a repressive or coercive nature. By examining the negative impact of the application of criminal law, criminal experts have initiated restorative justice to replace it as a means of reparation.²³

20 Gilang Yudistira Hilman, Bandi- Sasmito, dan Arwan Putra Wijaya, Pemetaan Daerah Rawan Kriminalitas Di Wilayah Hukum Poltabes Semarang Tahun 2013 dengan Menggunakan Metode Clustering," *Jurnal Geodesi Undip*, Vol. 4, No. 1, 21 January 2015, Page.32–42.

21 Paul Ricardo, Upaya Penanggulangan Penyalahgunaan Narkoba Oleh Kepolisian (Studi Kasus Satuan Narkoba Polres Metro Bekasi), *Jurnal Kriminologi Indonesia*, Vol. 6, No. 3, 2010, Page.232 – 245.

22 Reza Indragiri Amriel, *Psikologi Kaum Muda Pengguna Narkoba*, Penerbit Salemba, Jakarta, 2007, Page.25.

23 Herlina Manullang, Ranap Sitanggang, Sumangat Sidauruk, Erwin Sinaga, Penyelesaian Tindak Pidana Biasa Bermotif Ringan Dengan Restoratif Justice Sebagian Bentuk Upaya

Restorative justice has been adopted into Indonesia's criminal justice system, but its full potential has yet to be realized. Because of this, it is clear that there is no overarching rule regulating the use of restorative justice in narcotics abuse cases. Supreme Court Regulations and Supreme Court Circulars are one of the pillars for establishing restorative justice in Indonesia. The General Courts Agency's Director General released a Decree on restorative justice guidelines for the general judicial system on December 22, 2020. The Supreme Court's restorative justice rules aim to promote wider use of the concept and ensure that the principles of a quick, easy, and cheap trial are met while maintaining a sense of fairness. Several legal bases have been issued in Indonesia to govern the implementation of Restoration Justice, including: 1. Supreme Court Regulation of the Republic of Indonesia Number 02 of 2012, concerning Adjustments to the Limits of Misdemeanor Crimes and the Amount of Fines in the Criminal Code; 2. Memorandum of understanding with Chief Justice of the Supreme Court, Minister of Law and Human Rights, Attorney General, Chief of the National Police of the Republic of Indonesia; 3. Supreme Court Regulation of the Republic of Indonesia Number 03 of 2012, concerning Adjustments

To enforce the Guidelines for the Implementation of Restorative Justice (Restorative Justice), the Director General of the General Court of the Republic of Indonesia issued Decree No. 1691/DJU/SK/PS.00/12/2020. Regulation Number 6 of the State Police of the Republic of Indonesia, 2019, on the Investigation of Criminal Acts; Regulation Number 8 of the Chief of Police, 2021, on the Handling of Crimes in Accordance with Restorative Justice; Regulation Number 15 of the Republic of Indonesia's Prosecutor's Office, 2020, on the Termination of Prosecution in Accordance with Restorative Justice.

According to Articles 364, 373, 379, 384, 407, and 482 of Law No. 8 of 1981, the Supreme Court has ruled that restorative justice can be used in situations involving minor offenses that carry a maximum term of three months in jail and a fine of IDR 2,500,000. From what has been described, it is apparent that the Supreme Court, the Attorney General's Office, and the Chief of Police Regulations have all issued regulations pertaining to the implementation of restorative justice in Indonesia, but no single law governs the application of restorative justice and instead serves as the overarching regulation for the regulations issued by various law enforcement agencies. Criminal procedure is presently governed by Law No. 8 of 1981, which details the Criminal Procedure Law.²⁴

Articles specify that only minor offenses can be handled through Restorative Justice. Implementation of Adjustments to the Limits of Minor Crimes and the Number of Fines for Quick Examination Procedures, and the

Pembaharuan Hukum Pidana, *Nommensen Journal of Legal Opinion (NJLO)*, Vol. 1, No. 1, July 2020, Page.64-77.

24 Rajarif Syah Akbar Simatupang, Abdul Hakim Siagian, dan Rizkan Zulyadi, Legal Study On Children Who Do Criminal Actions In Narcotics Criminology Perspective Study at Deli Serdang Police, *Journal of Education, Humaniora and Social Sciences (JEHSS)*, Vol. 5, No. 2, 8 November 2022, Page.1137–1146.

Application of Restorative Justice Justice) Memorandum of Agreement Between the Chief Justice of the Supreme Court, the Minister of Law and Human Rights of the Republic of Indonesia, the Attorney General of the Republic of Indonesia, and the Head of the National Police of the Republic of Indonesia.²⁵ The Republic of Indonesia's National Police Regulation No. 8 of 2021 and the Republic of Indonesia's Attorney General Regulation No. 15 of 2020 concerning Termination Prosecution Based on Restorative Justice allow for the use of restorative justice to resolve cases of narcotics abuse, but only if certain formal and material requirements are met.

As stated in Article 2 of the Attorney General's Regulation No. 15 of 2020, the termination of prosecution based on restorative justice is carried out on the basis of: a. Justice; b. Public interest. c) Fair in terms of severity; d) Reserved for extreme cases; e) Quick, easy, and inexpensive. In addition, Article 5 specifies that when the following requirements are met, criminal cases can be legally concluded and prosecution can be terminated based on restorative justice.

a. This is the suspect's first offense; b. the maximum sentence for the crime committed is 5 (five) years in prison; and c. the total value of the evidence seized or losses sustained as a result of the crime does not exceed IDR 2,500,000 (two million five hundred thousand rupiah).

In addition, narcotics addiction includes both the usage of narcotics for consumption and the possession of only enough drugs for a single day's worth of use. SEMA No. 4 of 2010 establishes the grammar.²⁶ Whether the offender has a predicate as an addict or an addict who is also a dealer determines the extent to which investigators and prosecutors are obligated to conduct scientific investigations and prosecutions. Restorative drug justice has additional conditions for dealing with criminal behavior, such as:

1. Drug addicts and drug abuse victims applying for rehabilitation;
2. At the time of being caught red-handed, evidence of narcotics use was found for 1 (one) day with the classification of narcotics and psychotropics in accordance with statutory provisions, and no evidence of narcotics crime was found but the urine test results showed positive drugs;
3. Not involved in a network of criminal acts of narcotics, dealers and/or dealers;
4. An assessment has been carried out by an integrated assessment team;
5. The perpetrator is willing to cooperate with police investigators to conduct an investigation.²⁷

25 Silvia Hainia dan Abdurrahman Alhakim, Perlindungan Hukum Terhadap Whistleblower Dalam Tindak Pidana Narkotika, *Jurnal Hukum Sasana*, Vol. 8, No. 1, 5 April 2022, Page.145–52.

26 Andri Winjaya Laksana, Tinjauan Hukum Pidanaan Terhadap Pelaku Penyalahguna Narkotika Dengan Sistem Rehabilitasi, *Jurnal Pembaharuan Hukum*, Vol. 2, No. 1, 8 July 2016, Page.74–85.

27 Mustika Prabaningrum Kusumawati, *Op.Cit*, Page.190-206.

Republic of Indonesia National Police Regulation No. 8 of 2021 Concerning Handling of Crimes Based on Restorative Justice applies. Article 3 specifies that in order for the restorative justice settlement process to be used, certain conditions must be met. These conditions are further upon in articles 4, 5, and 6.²⁸

In accordance with Article 2, the following conditions must be met for Restorative Justice-based approaches to criminal behavior:

1. Standard and Exceptional In carrying out the Investigation or Investigative Criminal Research Function,
2. the general requirements referred to in paragraph 1 letter an apply to the handling of criminal acts based on restorative justice
3. the specific requirements referred to in paragraph 1 letter b only apply to the handling of criminal acts based on restorative justice in investigative or investigative activities.²⁹

The fourth article is also important. Material and Formal Requirements are the requirements referred to in Article 3 paragraph 1 letter a. Article 5 The material requirements as referred to in Article 4 letter an include: a. Does not cause anxiety and/or rejection from the community; b. Does not impact social conflict; c. Does not have the potential to divide the nation; d. Not radicalism; e. Not a repeat offender of a Criminal Act based on a Court Decision; And f. Not a crime of terrorism, a crime against the security of the state, a crime of corruption and a crime against people's lives. Article 6 paragraphs 1, 2, 3, 4, and 5 detail the formal conditions that must be met. Indonesian government police regulations.³⁰

In accordance with Republic of Indonesia National Police Regulation No. 8 of 2021, this paragraph details the necessary steps for dealing with criminal crimes using restorative justice.³¹ Restorative justice is a relatively new approach to dealing with criminal matters, and the rule stresses the importance of meeting both general and specific requirements. The use of restorative justice to deal with criminal offenses during an inquiry or investigative research activities is subject to the general conditions outlined in Article 3. This means that these standards apply at the beginning of the criminal justice system, The shift in the concept of crime and the orientation of criminal law, has brought bright hopes for legal protection for victims. The shift from retributive justice to restorative justice has a positive impact

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- 28 Montana Maruli Pakpahan, Erwin Owan Hermansyah, dan Lukman Hakim, Penerapan Status Pengguna Pada Tindak Pidana Narkotika Dalam Prespektif Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika, *Jurnal Hukum Sasana*, Vol. 7 No. 2, 9 December 2021, Page.203-216.
 - 29 Maudy Pritha Amanda, Sahadi Humaedi, dan Meilanny Budiarti Santoso, Penyalahgunaan Narkoba Di Kalangan Remaja (Adolescent Substance Abuse), *Prosiding Penelitian dan Pengabdian kepada Masyarakat*, Vol. 4, No. 2, 31 July 2017, Page.339-345.
 - 30 Bayu Puji Hariyanto, *Op.Cit*, Page.201-210
 - 31 Frans Simangunsong, Penegakan Hukum Terhadap Pelaku Tindak Pidana Narkotika, *Rechtstaat*, Vol. 8, No. 1, 4 February 2014, Page.1-10.

on crime prevention and control. However, it should be noted that in restorative justice, each case must be carried out differently.³²

However, the special requirements indicated in Article 3 apply uniquely to the use of restorative justice in the course of an investigation or inquiry.³³ This shows that these criteria are important to the current inquiry and subsequent decision making. The conditions laid out in Article 3, especially the broad standards, are expanded upon in greater detail in Article 4. Both practical and logical considerations are included in these necessities. The material requirements include things like not making people nervous or alienating them, avoiding social conflicts, keeping the country united, warding off radicalism, and not involving repeat offenders who have committed acts of terrorism, state security violations, corruption, or crimes against individuals' lives.³⁴

The question does not go into depth on the formal requirements, but Article 6 specifies them. Restorative justice procedures and administrative details are probably outlined in these norms. Overall, these rules guarantee that criminal cases handled through restorative justice procedures adhere to certain standards and protections. The concept of Restorative Justice is a theory that states that the criminal justice system is not designed to deter individuals who commit crimes. Restorative Justice is a settlement step taken to find a way out in a criminal case involving the community, with the victim and a perpetrator of a crime, to achieve Justice for all related parties so that a situation can be created the same as before.³⁵

In light of what has been said, it seems reasonable to assume that the formal and material requirements set forth in articles 3.4.5 and 6 of the Republic of Indonesia National Police Regulation No.8 Year 2021 and the Attorney General's Guideline Regulation Number 18 of 2021 can be met during the process of resolving drug abuse with a restorative approach. Issues regarding restorative justice require the participation of many people. In order to achieve its goal of a more fair and balanced resolution of criminal cases, the restorative justice process requires the participation of all relevant parties. By transforming the traditional focus of criminal justice procedures punishment into a dialogue and mediation process between the offender, the victim, and the offender's or victim's family and other related parties, restorative justice offers an alternative method of resolving criminal cases. As a result, restorative justice cannot be used to resolve a drugs offence unless all of the conditions set forth in the regulations are met and all of the relevant parties agree. Assessment process prosecution to abuser narcotics conducted with total prosecution. However, the appraisal process

32 Arif Khoirul Umam, Sri Endah Wahyuningsih, Achmad Sulchan, The Authority of Police in Implementation of Restorative Justice in Framework of Enforcement of Criminal Actions in Indonesia, *Law Development Journal*, Vol. 4, Issue. 1, March 2022, Page.9-18.

33 Anton Sudanto, Penerapan Hukum Pidana Narkotika di Indonesia, *ADIL: Jurnal Hukum*, Vol. 8, No. 1, 23 November 2017, Page.137-161.

34 Abdul Majid, *Bahaya Penyalahgunaan Narkoba*, Alprin, Semarang, 2020, Page.47

35 Muhammad Ihsan, Maroni, Ruben Achmad, Restorative Justice for Users of Narcotics Through Implementation of Depenalization, *Fiat Justisia: Jurnal Ilmu Hukum*, Vol. 16, No. 2, April-June 2022, Page.141-152.

on Step prosecution not yet conducted by whole or actual enforcement. This thing caused by a lot challenges faced by the prosecutor's office, among others are weak aspect law, existence dispute between enforcer law, and lack of facilities adequate, good from side source power man nor funding as well as the mentality of the prisoners who are still convict, score rehabilitation.³⁶

D. CONCLUSION

The settlement of narcotics abuse with restorative justice is needed for the value of justice for abusers, but laws and regulations are needed that specifically regulate restorative justice as a legal umbrella for existing regulations in the application of restorative justice for narcotics abuse so as not to cause confusion in its application. This means that settling a narcotics misuse offence through restorative justice cannot occur unless all of the conditions outlined in the regulations are met and all of the parties concerned are in agreement, Regulations such as the Republic of Indonesia Attorney General Regulations, the Supreme Court Regulations, the Memorandum of Understanding with the Supreme Court of the Republic of Indonesia, the Minister of Human Rights of the Republic of Indonesia, the Attorney General of the Republic of Indonesia, and the Head of the Republic of Indonesia National Police have all been followed in the implementation of restorative justice in Indonesia.

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36 Bayu Mediansyah, Restorative Assessment Based On The Results Of Integrated Assessment Prosecution Of Restorative Justice Abuse, *Cepalo*, Vol. 6, No. 1, January-June 2022, Page.51-62

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- Andri Winjaya Laksana, Tinjauan Hukum Pidana Terhadap Pelaku Penyalahguna Narkotika Dengan Sistem Rehabilitasi, *Jurnal Pembaharuan Hukum*, Vol. 2, No. 1, 8 July 2016;
- Anton Sudanto, Penerapan Hukum Pidana Narkotika di Indonesia, *ADIL: Jurnal Hukum*, Vol. 8, No. 1, 23 November 2017;
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- Bayu Mediansyah, Restorative Assessment Based On The Results Of Integrated Assessment Prosecution Of Restorative Justice Abuse, *Cepalo*, Vol. 6, No. 1, January-June 2022;
- Bayu Puji Hariyanto, Pencegahan Dan Pemberantasan Peredaran Narkoba Di Indonesia *Jurnal Daulat Hukum*, Vol. 1, No. 1, 2018;
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