

IMPLEMENTATION OF MANDATORY REPORTING FOR NARCOTICS ADDICTS

Cut Nurita

Universitas Islam Sumatera Utara

Email: cutnurita12@gmail.com

ARTICLE INFO

History of the article:

Received: 02/04/2024

Corrected: 11/04/2024

Accepted : 30/04/2024

Published: 30/04/2024

Keywords:

Mandatory Reporting,
Addicts, Narcotics.

ABSTRACT

Mandatory reporting of drug addicts is an effort to fulfill the rights of drug addicts to receive treatment or care through medical and social rehabilitation. The mandatory reporting procedure for drug addicts, based on Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting of Drug Addicts, is an activity carried out by drug addicts who are of legal age or their families, or parents or guardians of drug addicts who are minors, to mandatory reporting institutions to receive treatment or care through medical and social rehabilitation. The rights (of drug addicts) include undergoing treatment or care in hospitals and other healthcare facilities, as well as medical and social rehabilitation institutions. Mandatory Reporting to Mandatory Reporting Receiving Institutions. Drug addicts undergoing treatment or care in hospitals and other healthcare facilities, as well as medical rehabilitation institutions, are required to undergo medical or social rehabilitation in accordance with the rehabilitation plan.

1. Introduction

Narcotics are substances or drugs that are highly beneficial and necessary for the treatment of certain diseases. If misused or used inappropriately, narcotics can have very detrimental consequences for individuals and society, especially the younger generation. Narcotics are even more detrimental if accompanied by abuse and illicit trafficking, which can pose a greater danger to the nation's lives and cultural values, ultimately weakening national resilience. "In general, narcotics have the ability to lower and alter consciousness (anesthetic) and reduce, or even eliminate, pain (analgesic)." "Narcotics are substances that, when introduced into the body, affect physical and psychological functions (except for food, water, or oxygen)."

The problem of drug abuse is currently a concern for many people and is continually discussed and publicized. The issue of drug abuse has attracted the attention of various groups in Indonesia, from the government, NGOs, community organizations, and even the public, who are also involved in discussing the dangers of drug abuse. Drug abuse drives illicit trafficking, while



illicit trafficking leads to increasingly widespread abuse and international dimensions. Therefore, efforts to prevent and address drug abuse and eradicate illicit trafficking are necessary, given the advancements in communication, information, and transportation in the current era of globalization. Drug abuse usually begins with first use in elementary or junior high school, driven by offers, persuasion, and peer pressure. Driven by curiosity or a desire to try, they readily accept. Subsequent offers are easily accepted. From a single use, then multiple uses, they eventually develop a dependency on the substance.

The increase in illicit drug trafficking is inextricably linked to the activities of transnational criminal organizations operating in various countries within an international criminal network. Due to the enormous profits derived from drug trafficking, these criminal organizations strive by all means to maintain and expand their illicit drug trafficking operations by infiltrating, interfering with, and undermining government structures, legitimate trade and financial institutions, and influential groups within society. Transnational narcotics crimes are committed using sophisticated methods and technology, including securing the proceeds of narcotics crimes. The development of narcotics crimes has become a very serious threat to human life. Although narcotics are very useful and necessary for medical treatment and health services, if misused or used in a manner inconsistent with medical standards, especially when accompanied by illicit drug trafficking, they can have very detrimental consequences for individuals and society, especially the younger generation. They can even pose a greater danger to the nation's life and cultural values.

Narcotics abuse and crimes have reached a dangerous level, as they not only cause physical and mental damage but also affect social life, which in turn can disrupt the foundations of national security and national development towards a just and prosperous society, as envisioned in the state's goals as stated in the fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution). Narcotics can hinder national development, both materially and spiritually, and therefore must be prevented. Prevention is better than cure. Prevention is crucial, even paramount. It's reasonable to immediately seek rational solutions to address the circulation of narcotics, as drug crime is clearly a social problem that can disrupt the social functioning of society.

Drug crimes are generally not committed by individuals alone, but rather collectively, even by syndicates that are well-organized, well-organized, and highly secretive. One rational approach to combating drug trafficking is a criminal law policy approach. Perpetrators of drug crimes, in particular, face severe and severe penalties, with the defendant potentially facing a maximum sentence of death in addition to imprisonment and a fine. Given that narcotics and





psychotropic drug crimes are classified as special crimes, the penalty can be imposed cumulatively, by imposing two principal penalties simultaneously, for example, imprisonment and a fine, or the death penalty and a fine. Drug addicts should be rehabilitated, not imprisoned and considered criminals.

The government has enacted Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics (hereinafter referred to as the Narcotics Law), which stipulates that any drug user who, after a court verdict, is proven not to have distributed or produced narcotics—in this case, they are merely users—has the right to apply for rehabilitation services. In view of this, the Narcotics Law provides an opportunity for addicts who have fallen into drug abuse to break free from their condition and return to a healthy and normal life. In practice, in several cases of drug addict arrests, those who are proven not to have been involved in drug distribution—in other words, they are merely users. In such cases, after a court verdict is issued, these users can be referred for rehabilitation, both medical and social. One area of concern is the implementation of mandatory reporting of drug addicts, an effort to fulfill the rights of drug addicts to receive treatment and/or care through medical and social rehabilitation. Another objective of implementing mandatory reporting for drug addicts is to involve parents, guardians, families, and the community in increasing their responsibility for drug addicts under their supervision and guidance. Furthermore, mandatory reporting also serves as information for the government in establishing policies in the field of preventing and eradicating drug abuse and illicit trafficking.

2. Research Method

This research is descriptive in nature. Descriptive research aims to provide the most accurate data possible. The author will describe the mandatory reporting procedure for drug addicts. The approaches used are normative juridical and empirical juridical. The normative juridical approach is research conducted by examining secondary data sources, such as legislation. The collected data will be thoroughly analyzed using qualitative analysis or described in sentences. Qualitative analysis is "analysis based on the paradigm of the dynamic relationship between theories, concepts, and data, which provides feedback or constant modification of theories and concepts based on the collected data."

3. Results And Discussion

According to the laws and regulations governing narcotics, legally recognized drug addicts are divided into two categories:

1. Drug Addicts Report to Mandatory Reporting Institutions (IPWL).



Article 54 of the Indonesian Narcotics Law states that drug addicts and victims of drug abuse are required to undergo medical and social rehabilitation. For addicts, therapy and rehabilitation are the best course of action. Addiction is a disease that must be cured, not punished. The mandatory reporting requirement for drug abusers, who are addicts, is further strengthened by the issuance of Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts. This Government Regulation explains that mandatory reporting is the activity of self-reporting by drug addicts of legal age, their families, and/or parents or guardians of drug addicts who are minors, to mandatory reporting institutions to receive treatment and/or care through medical and social rehabilitation.

Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts more clearly stipulates that institutions receiving mandatory reporting are community health centers, hospitals, and/or medical rehabilitation institutions and social rehabilitation institutions designated by the government. Mandatory reporting can be carried out by parents or guardians of underage drug addicts and adult drug addicts or their families. Article 4 of Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts states that mandatory reporting for narcotics addicts is carried out at mandatory reporting institutions, community health centers, hospitals, and/or medical rehabilitation institutions designated by the Minister of Health. Social rehabilitation institutions designated by the Minister overseeing government affairs in the social sector.

Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts also regulates mandatory reporting procedures, as explained in Article 6, which states that mandatory reporting is carried out by reporting narcotics addicts to institutions that receive mandatory reporting. If the report is made other than an institution that receives mandatory reporting, the officer receiving the report will forward it to the institution that receives mandatory reporting. Article 7 of Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts explains that institutions that receive mandatory reporting, as referred to in Article 6 of Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts, are required to conduct an assessment (an assessment is a pre-therapy stage for prospective patients to assess the severity and/or determine the need for treatment) on narcotics addicts to determine their condition. The assessment includes medical and social aspects.

Article 8 of Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts states that



assessments are conducted through interviews, observations, and physical and psychological examinations of the drug addict. Interviews include medical history, drug use history, medication and treatment history, criminal history, psychiatric history, and the drug addict's family and social history. Observations include observations of the drug addict's behavior. Article 9 of Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts explains the post-assessment phase: the assessment results are recorded in the drug addict's medical record or behavioral change record. The assessment results are confidential and serve as the basis for the drug addict's rehabilitation plan. Confidentiality of the assessment results is maintained in accordance with statutory provisions. The rehabilitation plan is then agreed upon by the drug addict, their parents, guardians, or family members, and the head of the institution receiving the Mandatory Reporting.

Article 10 of Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts explains that Narcotics Addicts who have reported themselves or have been reported to the Institution Receiving Mandatory Reporting are given a self-report card after undergoing an assessment. The self-report card is valid for 2 (two) treatment periods. The self-report card is given by the Head of the Institution Receiving Mandatory Reporting.

The Narcotics Law and Government Regulation No. 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts clearly stipulate that a person is considered a drug addict when they report themselves to an Institution Receiving Mandatory Reports (IPWL). To implement this mandatory reporting requirement, it is necessary to establish an Institution Receiving Mandatory Reports (IPWL). In response, the Minister of Health issued Decree No. 1305/Menkes/SK/VI/2011, which designated the National Narcotics Agency of North Sumatra Province, Dr. Pirngadi General Hospital, Medan, Tanjung Morawa Community Health Center, Deli Serdang, and Medan Mental Hospital as the Institutions Receiving Mandatory Reports for the North Sumatra region. The Minister of Social Affairs also established several IPWLs in North Sumatra, namely the Sibolangit Center and the Pamardi Putra Social Institution (Panti Insaf).

2. Narcotics Addicts Who Submitted Applications During the Judicial Process.

This obligation to undergo medical rehabilitation or social rehabilitation also applies to drug addicts who are still undergoing judicial proceedings even though they have not yet been sentenced, as stipulated in Article 13 of Government Regulation No. 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts. The obligation to undergo medical rehabilitation and/or social rehabilitation also applies to drug addicts ordered based on:



- a. A court ruling if the drug addict is found guilty of a narcotics crime.
- b. A court ruling if the drug addict is not found guilty of a narcotics crime.

Article 13 of Government Regulation No. 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts also states that drug addicts undergoing judicial proceedings may be placed in a medical rehabilitation and/or social rehabilitation institution. Placement in a medical rehabilitation and/or social rehabilitation institution, as described above, is the authority of the investigator, public prosecutor, or judge, depending on the level of examination, after receiving a recommendation from a team of doctors. The provisions for placement in medical and/or social rehabilitation institutions also apply to victims of drug abuse. The provisions stipulated in Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting for Drug Addicts actually give law enforcement officials the authority to properly investigate whether someone is a pure abuser or a true addict. If an addict is, they must immediately undergo rehabilitation to receive treatment.

Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts is strengthened by the issuance of Supreme Court Circular Letter No. 3 of 2011 concerning the Placement of Narcotics Abuse Victims in Medical and Social Rehabilitation Institutions. In this Circular Letter No. 3 of 2011, the Supreme Court stated that with the provisions in the Narcotics Law and Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts, which also regulates rehabilitation for narcotics victims, a very central position is given to the Police, Prosecutors, and Judges, especially regarding placement in medical and social rehabilitation institutions from the investigation process, prosecution, to the trial examination process to form a decision. However, judges are still required to pay attention to and refer to Supreme Court Circular Letter No. 4 of 2010 when issuing orders for decisions.

The National Narcotics Agency in responding to Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts. This Narcotics Addict Report has issued a Regulation, namely the Regulation of the Head of the National Narcotics Agency of the Republic of Indonesia No. 2 of 2011 Concerning Procedures for Handling Suspects or Defendants of Drug Abuse, Victims of Drug Abuse, and Drug Addicts, in its considerations stating that drug abusers, victims of drug abuse and drug addicts who are named as suspects or defendants in narcotics and narcotic precursor crime cases during the judicial process need special handling by placing them in medical rehabilitation and/or social rehabilitation institutions in order to obtain treatment and care for recovery.



This Regulation of the Head of the National Narcotics Agency (BNN) provides technical guidelines for handling drug abusers designated as suspects or defendants, allowing them to undergo medical and/or social rehabilitation during the judicial process. Articles 3 through 7 of Regulation of the Head of the National Narcotics Agency of the Republic of Indonesia No. 2 of 2011 concerning Procedures for Handling Suspected or Defendant Drug Abusers, Victims of Drug Abuse, and Drug Addicts explain the procedure for submitting a request for rehabilitation. The suspect or defendant must submit a written request to the investigator, public prosecutor, or judge, depending on the level of examination. Article 6 of this Regulation also outlines the requirements that must be met for the application to be processed further. Article 8 of Regulation of the Head of the National Narcotics Agency of the Republic of Indonesia No. 2 of 2011 concerning Procedures for Handling Suspected or Defendant Drug Abusers, Victims of Drug Abuse, and Drug Addicts explains that to handle received applications, the Head of the BNN will establish a Drug Abuse Handling Team, the composition of which includes:

- a. The Head of the National Narcotics Agency (BNN) as the protector.
- b. The Chief Inspector of the BNN as the supervisor.
- c. The Chief Secretary of the BNN as the senator.
- d. The Deputy for Rehabilitation of the BNN as the person in charge.
- e. The Deputy for Legal Affairs and Cooperation of the BNN as the Team Leader.
- f. The Deputy for Eradication of the BNN as the coordinator of the narcotics network study.
- g. The Director of Strengthening Community Component Rehabilitation Institutions of the BNN as the Coordinator of the Medical Study.
- h. The Director of Law, Deputy for Legal Affairs and Cooperation of the BNN, as the Coordinator of the Legal Study.
- i. Representatives from the Deputy for Eradication of the BNN, the Deputy for Rehabilitation, and the Legal Directorate, Deputy for Legal Affairs and Cooperation of the BNN as the Secretary and Team Members.

The BNN Team's application handling procedures are outlined in Articles 11 through 20 of Regulation of the Head of the National Narcotics Agency of the Republic of Indonesia No. 2 of 2011 concerning Procedures for Handling Suspected or Defendant Drug Abusers, Victims of Drug Abuse, and Drug Addicts. This article states that after the team receives the application, the files will be reviewed by the team leader. After reviewing the completeness of the application documents, the team will then assign tasks and form a team to conduct a medical, psychosocial, and social assessment and study of the suspect or defendant. The medical assessment and study include several activities,



including interviews, information about medical history, drug use history, medication and treatment history, criminal history, psychiatric history, family and social history of the suspect or defendant, observation of the suspect or defendant's behavior, and physical and psychological examinations.

The next step is to review narcotics and precursors. This involves matching the suspect's identity, such as photographs, fingerprints, physical characteristics, and names/aliases, with narcotics network data stored in the National Narcotics Agency (BNN)'s Deputy for Eradication database, analyzing related intelligence data, and reviewing the minutes of the suspect's or defendant's interrogation. The final step is a legal review, which includes reviewing the assessment results, medical examinations, and narcotics network and precursor studies. It also examines the application of the articles of the Narcotics Law and the provisions of Supreme Court Circular Letter No. 4 of 2010. It also provides a legal opinion.

The team can request information from the suspect or defendant and other related parties when conducting assessments and studies, the results of medical assessments and studies, the results of studies on narcotics networks and narcotic precursors, and the results of legal studies are submitted to the team leader, then the team leader holds a decision-making meeting no later than 3 (three) days from the date of receiving the results of the assessment and study, the assessment and study team carries out its duties within a period of no later than 15 (fifteen) working days. The assessment and review are conducted at the National Narcotics Agency (BNN) office. The team's decision may include granting the application and recommending the suspect's placement in a medical or social rehabilitation facility. The recommendation is made in the form of a written statement signed by the team leader and delivered to the applicant. The decision may also include rejecting the application, with the applicant notified of the rejection along with the reasons for the rejection.

Suspects or defendants suspected of being drug dealers or drug precursors, and suspects or defendants proven to possess narcotics in excess of a certain amount and tested positive for drug use, as determined by the assessment, will remain detained at the BNN detention center while receiving medical and social treatment and care. Article 55 of the Narcotics Law stipulates that drug addicts are required to self-report to community health centers, hospitals, and/or medical and social rehabilitation institutions designated by the government to receive treatment and/or care through medical and social rehabilitation. More detailed implementation of mandatory self-reporting for drug addicts is outlined in Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting for Drug Addicts. Through the mandatory reporting program, addicts are expected to receive medical assistance, psychosocial intervention, and the information necessary to minimize their risks and obtain



referrals for further treatment tailored to their condition and needs. The mandatory reporting program is expected to significantly contribute to programs addressing the negative impacts often experienced by drug addicts.

4. Conclusion

The mandatory reporting procedure for drug addicts, based on Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts, is a self-reporting activity carried out by adult drug addicts, their families, or parents or guardians of underage drug addicts, to mandatory reporting institutions for treatment or care through medical and social rehabilitation. The provisions of criminal sanctions against narcotics addicts who do not carry out mandatory reporting according to Government Regulation Number 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts can be subject to criminal sanctions as stated in Article 131 of the Narcotics Law that a person who intentionally knows but does not report a narcotics abuser, then the person who knows is threatened with imprisonment for a maximum of 1 (one) year or a maximum fine of Rp. 50,000,000.00 (fifty million rupiah).

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