

EFFECTIVENESS OF LAW ENFORCEMENT AGAINST DRUG ABUSE FROM A RESTORATIVE JUSTICE PERSPECTIVE

Riyan Widya Putra ¹ Ismaidar ² Muhammad Arif Sahlepi ³

¹²³ Universitas Pembangunan Panca Budi Medan

Email : riyan.widyaputra@gmail.com ismaidarisma@gmail.com arifsahlepi@dosen.pancabudi.ac.id

Abstract

Law enforcement against drug abusers in Indonesia is still dominated by a repressive, punitive approach, despite Law Number 35 of 2009 concerning Narcotics and several supporting policies, such as Attorney General's Guidelines Number 18 of 2021 and Supreme Court Circular Letter Number 4 of 2010, which have opened up opportunities for the implementation of restorative justice. This study aims to analyze the effectiveness of law enforcement against drug abusers using a restorative justice approach and examine the implementation obstacles encountered at the practical level. The research method used is normative juridical with a descriptive qualitative approach, based on regulatory analysis and empirical data from various authoritative sources such as the National Narcotics Agency, the Directorate General of Corrections, and scientific journals. The results show that although the restorative justice approach has been normatively accommodated, its implementation is still hampered by poor understanding among officials, unpreparedness of rehabilitation infrastructure, weak assessment mechanisms, and cultural resistance to the recovery paradigm. In many cases, drug abusers are still directed toward criminal justice without objective assessment, resulting in overcrowding in correctional institutions and high rates of recidivism. In contrast, a restorative justice model based on rehabilitation, social recovery, and community integration has proven more effective in addressing the root causes of drug addiction. Therefore, systemic reform is needed to mainstream restorative justice as the primary approach in handling drug cases, by strengthening inter-agency synergy, expanding the capacity of rehabilitation institutions, and encouraging a paradigm shift in law enforcement. These findings provide an important foundation for developing a more humane, efficient, and socially just criminal policy.

Keywords: Drug Abuse, Law Enforcement, Restorative Justice, Rehabilitation, Criminal System.

INTRODUCTION

The problem of drug abuse has become a crucial phenomenon in the social, legal, and public health dynamics in Indonesia. The presence of narcotics, whether in natural, synthetic, or semi-synthetic forms, has transformed the face of crime, making it more complex, organized, and networked across regions and even countries. The drug problem is not rooted solely in the criminal dimension but also touches on health, psychology, the economy, and even national security. The Indonesian government, through various legal and institutional instruments, has attempted to eradicate drug abuse and illicit trafficking, but the number of cases has not shown a significant decline from year to year. In fact, according to 2023 data from the National Narcotics Agency (BNN), more than 3.3 million Indonesians are registered drug users, with an increasing trend among the productive age group (BNN, 2023).

The high rate of drug abuse has directly impacted the surge in prison inmates. A report from the Directorate General of Corrections at the Ministry of Law and Human Rights stated that approximately 55% of the total prison population in Indonesia are inmates involved in drug cases, with a predominance of drug users and addicts (Directorate General of Corrections, 2022). Overcrowding caused by the massive imprisonment of drug abusers has become a structural problem that hinders the developmental function within prisons. Instead of serving as a place for social rehabilitation, correctional institutions often become breeding grounds for recidivism and new drug

networks. This raises a fundamental question: is the punishment-based (retributive) law enforcement paradigm still relevant and effective in addressing drug abuse?

The dominant law enforcement approach used against drug abusers in Indonesia is a repressive criminal approach. Investigators use the criminal provisions of Law Number 35 of 2009 concerning Narcotics, particularly Article 127, to charge drug users with crimes, which ultimately result in imprisonment. This approach is believed to have a deterrent effect and protect society from the negative impacts of drug abuse. However, this approach has actually given rise to new problems, such as case congestion in courts, the overcrowding of prisoners in correctional facilities, and high recidivism rates due to the lack of a rehabilitation process that addresses the root of the problem, namely psychological and medical dependence on addictive substances (Nurhalim, 2022).

In response to this situation, the discourse and practice of restorative justice have begun to be mainstreamed within the framework of criminal law reform in Indonesia. Restorative justice is an alternative approach to resolving criminal cases that emphasizes reparation of harm, victim healing, perpetrator accountability, and reconciliation between the parties involved. In the context of drug abuse, this approach aims to divert users from imprisonment to medical and social rehabilitation programs that include psychosocial support, family integration, and community participation (Iskandar, 2023). Restorative justice positions drug abusers as subjects in need of healing, not simply objects of punishment.

Concrete steps to strengthen restorative justice in the Indonesian criminal justice system can be seen in the issuance of Attorney General's Guidelines No. 18 of 2021, which allow for the termination of prosecutions in drug cases against drug abusers based on the results of an integrated assessment. These guidelines authorize prosecutors to discontinue prosecution if the perpetrator is deemed an addict or victim of drug abuse and meets the requirements for rehabilitation. The Supreme Court itself has issued Supreme Court Circular Letter No. 4 of 2010, supporting the use of rehabilitation as a form of sanction for drug users who are not dealers (Mahfud MD, 2019).

However, the implementation of this restorative justice approach still faces several serious challenges. Regulatory barriers, resistance from law enforcement officials, limited rehabilitation facilities and infrastructure, and the persistence of a punitive paradigm within society are factors that hinder the transition to a restorative law enforcement system. Many law enforcement officials in the field are still reluctant to implement case terminations, preferring to continue the trial process because it is considered procedurally simpler and offers stronger legal certainty. Furthermore, limited public understanding of the concept of restorative justice often gives rise to negative perceptions that this approach will weaken the deterrent effect and coddle perpetrators.

In addition to legal and institutional issues, the societal paradigm that tends to view drug abusers as criminals also poses a major obstacle to implementing a restorative approach. Public narratives shaped by the media and statements by state figures often equate users with dealers, resulting in a lack of acceptance of rehabilitation policies. Normatively, Article 54 of Law Number 35 of 2009 concerning Narcotics stipulates that drug addicts and victims of drug abuse are required to undergo medical and social rehabilitation. This means that the law recognizes the public health dimension of this problem, yet in practice, it is often ignored by law enforcement officials (Maulana, 2021).

This lack of synchronization between legal norms, judicial practice, and public perception has led to a dualistic approach to handling drug cases: rehabilitation as a restorative approach and imprisonment as a repressive one. Several studies have also revealed that the majority of drug abusers who are prosecuted do not receive a comprehensive assessment and are immediately sentenced to prison without any evaluation of their dependence status. This situation clearly violates the spirit of human rights protection and the principle of proportionality in sentencing (Aulia, 2022).

When discussing the effectiveness of law enforcement, the measure used should not be solely based on the number of perpetrators prosecuted or sentenced. It should also encompass the extent to which the law addresses the root of the problem, restores the situation, and prevents recurrence of crime. In the context of drug abuse, indicators of effectiveness should also be seen in the success of

rehabilitation, social reintegration, and a reduction in recidivism rates. Thus, a restorative justice approach is highly relevant because it offers a resolution mechanism that transcends punishment and includes healing, prevention, and community involvement as part of social recovery.

It should be emphasized that restorative justice does not eliminate criminal responsibility, but rather shifts the orientation of criminal law from retribution to restoration. In drug abuse cases, perpetrators are still held accountable through an assessment process, a commitment to rehabilitation, and engagement in constructive dialogue. In fact, with this approach, the perpetrator's responsibility becomes more meaningful because they are not simply serving a passive sentence in prison, but rather are actively involved in the process of recovery and behavioral change (Yulinda, 2020). Law enforcement that positions humans as subjects of recovery is also in line with the basic values of Pancasila and the principles of the Indonesian rule of law.

Restorative justice in drug cases can also be a means to address structural problems in our criminal justice system, which tends to be overloaded. The large number of drug cases filed with prosecutors and courts has resulted in a heavy workload, ultimately reducing the quality of investigations and substantive justice. If minor drug abuse cases that do not involve distribution networks can be resolved through non-litigative mechanisms based on restorative justice, law enforcement resources can be more focused on eradicating large networks and international drug syndicates. Thus, this approach is not only normatively relevant but also systemically strategic.

One example of policy implementation aligned with the spirit of restorative justice is the mandatory rehabilitation program for drug abusers initiated by the National Narcotics Agency (BNN) and the Ministry of Health. According to a 2022 BNN report, 16,766 clients have undergone rehabilitation, both inpatient and outpatient, across Indonesia (BNN, 2022). However, this figure remains very small compared to the estimated number of drug abusers, which is over 3 million. The disparity between the need for and availability of rehabilitation services indicates that restorative justice programs still face serious challenges in terms of infrastructure and budgetary policies.

Furthermore, there are disparities in implementation at the regional level. Some regions have shown good progress through coordination between the police, prosecutors, and rehabilitation agencies, such as in West Java and Jakarta. However, in other regions, particularly in eastern Indonesia, the rehabilitative approach to drug abuse remains largely unknown and tends to be neglected. This reflects the lack of integrated and institutionalized national standards for the application of restorative justice in drug cases (Pratama, 2023). Therefore, a national system-based policy update is needed that prioritizes the restorative approach in every law enforcement process for drug abusers.

The urgency to strengthen restorative justice approaches also aligns with global trends in drug policy. Several countries, such as Portugal, Canada, and several Eastern European countries, have already adopted decriminalization approaches for drug abusers, focusing on health interventions and rehabilitation rather than criminal punishment. This approach has been proven to reduce repeat use, reduce prison burdens, and improve the quality of life of former users. Although Indonesia's socio-political context is different, the basic principle can be adapted: that drug abuse is a public health problem that requires a multidimensional response, not solely a criminalization instrument (Samsul, 2022).

Based on the above realities, this paper aims to critically examine the effectiveness of law enforcement against drug abusers in Indonesia from a restorative justice perspective. This study will examine the normative, implementative, and evaluative aspects of the approaches that have been and are currently being implemented, with a focus on protecting the human rights of perpetrators, the sustainability of rehabilitation, and the accompanying institutional challenges. This research also aims to provide theoretical and practical input for policymakers, law enforcement officials, and rehabilitation institutions so they can develop a more just, humane, and impactful system in resolving the drug problem in this country.

METHOD

This research employs a normative juridical approach with a qualitative analysis method focused on the study of laws and regulations, policy documents, and court decisions related to the handling of drug abusers from a restorative justice perspective. Primary data sources in this study consist of Law Number 35 of 2009 concerning Narcotics, Attorney General's Guidelines Number 18 of 2021, and the Supreme Court Circular Letter concerning the handling of narcotics cases. Meanwhile, secondary data was obtained from reports from the National Narcotics Agency, the Directorate General of Corrections, scientific journals, law books, and relevant academic articles. Data analysis was conducted using a descriptive-analytical technique, examining the extent to which applicable legal norms have been effectively implemented in practice and whether the restorative justice approach truly provides solutions to the root causes of drug abuse in Indonesia.

RESULTS AND DISCUSSION

Law Enforcement for Drug Abusers Between Rehabilitation and Imprisonment

Law enforcement against drug abuse in Indonesia is normatively based on a fairly comprehensive framework, established under Law Number 35 of 2009 concerning Narcotics. However, in practice, there remains an ambiguity in the approach used, between restorative rehabilitation and repressive imprisonment. While the law's articles provide space for diverting drug abusers to rehabilitation, its implementation remains dominated by a punitive paradigm.

Normatively, Article 127 paragraph (1) of Law Number 35 of 2009 states that "Every abuser of class I narcotics for themselves shall be punished with a maximum imprisonment of 4 (four) years." In paragraph (2) it is stated that abusers as referred to in paragraph (1) can be sentenced to rehabilitation. Further confirmation is given in Article 54 which states that "Narcotics Addicts and Victims of Narcotics Abuse are required to undergo medical rehabilitation and social rehabilitation." This is the basis that the Indonesian legal system has given recognition to the condition of abusers as individuals who need recovery, not merely criminals who deserve to be imprisoned.

However, in judicial practice, many investigators, prosecutors, and judges still directly use a criminalization approach by imposing prison sentences without an objective assessment of the perpetrator's dependency status. This is despite the provisions of Articles 13 to 14 of the 2014 Joint Regulation of the Supreme Court, the Minister of Law and Human Rights, the Minister of Health, the Minister of Social Affairs, the Attorney General, the Chief of Police, and the Head of the National Narcotics Agency (BNN) establishing an integrated assessment mechanism to determine whether a perpetrator is an addict, a victim of abuse, or a dealer. Unfortunately, this assessment is often ignored in law enforcement processes at the investigation and prosecution levels (Kurniawan, 2022).

The tendency of law enforcement to pursue criminal action is driven by various factors, including: (1) a lack of understanding among officials regarding the role of rehabilitation in the context of restorative justice; (2) a lack of technical clarity regarding the implementation of integrated assessments in the regions; and (3) a lack of integration between law enforcement officials and rehabilitation institutions. As a result, drug abusers are still treated as ordinary criminals who must go through the full criminal justice process. This is certainly contrary to the spirit of Article 103 of the Narcotics Law, which stipulates that judges can decide to place drug addicts in rehabilitation institutions, rather than imposing prison sentences.

Regarding prosecution policy, the Attorney General has issued Guideline No. 18 of 2021, which explicitly states that prosecutors may discontinue prosecution of drug abusers and direct them to rehabilitation if the assessment indicates that the perpetrator is a victim of abuse and not a dealer. The guideline explains that this approach aligns with the principle of restorative justice, namely justice that emphasizes restoring the social and health of the perpetrator rather than solely punishing them.

However, despite these guidelines being in effect, data released by the National Narcotics Agency (BNN) shows that the number of drug users successfully rehabilitated remains very low compared to the total number of cases handled. In 2022, of the more than 40,000 drug cases handled by law enforcement, only around 5,700 users underwent rehabilitation through legal channels, either inpatient or outpatient (BNN, 2023). This reflects that the restorative justice approach has not yet become the dominant policy in drug law enforcement, but rather remains an alternative that is not consistently implemented.

Furthermore, in many cases, drug users who should qualify for rehabilitation are still brought to trial and sentenced to prison. This indicates a gap between norms and their implementation. Supreme Court Circular Letter (SEMA) Number 4 of 2010, which urges judges to prioritize rehabilitation for users not connected to drug trafficking networks, has also not been implemented optimally. Many judges still adhere to the principle of caution when issuing non-prison sentences for fear of being perceived as lenient on drug crimes (Prasetya, 2022).

This situation illustrates that law enforcement against drug abusers is still more influenced by a retributive justice approach, which emphasizes punishment, than restorative justice, which emphasizes rehabilitation. One indicator of this is the chronic overcrowding of correctional institutions. According to data from the Directorate General of Corrections, by 2023, the number of prison inmates in Indonesia will have reached more than 270,000, with over 60% of them being convicted of drug offenses, whether as users, couriers, or dealers (Directorate General of Corrections, 2023). This phenomenon not only creates technical problems such as a lack of facilities and supervisory staff, but also weakens the function of correctional institutions as a place of development.

This reality raises both legal and sociological issues. From a legal perspective, law enforcement that ignores the provisions of Article 54 and Article 103 of Law Number 35 of 2009, as well as the Attorney General's Guidelines and the Supreme Court Regulations, can be considered a form of judicial maladministration. Meanwhile, from a sociological perspective, criminalizing drug abusers has failed to prevent recurrence. The high recidivism rate in drug cases reinforces the finding that imprisonment is not a solution to addiction problems, as it fails to address the root of the problem: biological and psychological dependence on addictive substances (Ramadhan, 2021).

Furthermore, criminalizing drug abusers also risks perpetuating social marginalization. After serving their sentences, former drug convicts often experience discrimination in the workplace, education, and even within their families and communities. However, from a restorative justice perspective, the recovery process encompasses more than medical rehabilitation, but also comprehensive social integration. Law Number 22 of 2022 concerning Corrections emphasizes the importance of social reintegration as part of a social justice-oriented sentencing process. However, this reintegration becomes impossible if the chosen approach is solely punitive from the outset (Hidayat, 2022).

It's important to note that restorative justice in drug cases cannot be understood simplistically as "removal of criminal penalties." Instead, it offers a more contextual justice mechanism, where perpetrators are held accountable and guided toward effective rehabilitation. This model emphasizes the active role of families, communities, and medical professionals to ensure sustainable recovery. Unfortunately, in many cases, law enforcement officials fail to communicate with the perpetrators' families, and the judicial process is conducted in a formalistic manner without any real social recovery efforts (Fitriani, 2021).

Therefore, the effectiveness of law enforcement against drug abusers is largely determined by the extent to which law enforcement officials understand and implement the principles of restorative justice recognized in positive law. If the legal system continues to impose a criminal approach on users who should be rehabilitated, it will result in a repetition of structural errors that exacerbate the social and economic burden on the state. In other words, the choice between rehabilitation and imprisonment is not simply a matter of legal preference, but rather a reflection of the direction of the justice paradigm adopted by the national legal system.

Implementation and Challenges of Restorative Justice in Handling Drug Abusers in Indonesia

The implementation of restorative justice principles in drug abuse cases in Indonesia has been granted space through various regulations and policies. However, in practice, its implementation still faces complex obstacles, both structural and cultural, and technical and legal. Restorative justice, as an alternative approach, demands a paradigm shift from all elements of the criminal justice system, from investigators and prosecutors to judges, to rehabilitation officials and the community as a recovery environment.

From a policy perspective, Law Number 35 of 2009 concerning Narcotics has provided a strong legal basis for implementing a rehabilitation approach for drug abusers. Article 103 paragraph (1) explicitly states that "Judges may decide to place drug addicts in rehabilitation institutions, whether medical or social." This provision opens up the possibility for drug abusers to avoid serving prison sentences, but instead be directed towards comprehensive rehabilitation. However, in practice, this authority is not optimally exercised by the judiciary.

One major challenge is the limited integrated assessment mechanism. The 2014 Joint Regulation on the Handling of Drug Addicts and Victims of Drug Abuse stipulates that the assessment process is the initial step in determining whether an offender is eligible for rehabilitation. However, its implementation in the field depends heavily on synergy between agencies such as the police, prosecutors, the National Narcotics Agency (BNN), and medical personnel. In many cases, assessments are not conducted due to technical constraints, such as a lack of expertise, limited time for investigations, and poor understanding among officials (Lestari, 2021). This results in abusers being directly processed through the criminal justice system without an objective evaluation.

Besides assessments, another challenge is the limited number of available rehabilitation institutions, particularly in areas outside Java. According to National Narcotics Agency (BNN) data, in 2022 there were approximately 100 accredited rehabilitation institutions across Indonesia, with very limited inpatient capacity. This is despite the estimated number of active drug abusers reaching over 3 million. This disparity creates barriers to placement of offenders in rehabilitation institutions due to geographic factors, costs, and inadequate facilities (BNN, 2022). As a result, law enforcement officials tend to choose imprisonment as an option perceived as "easier," even though it does not substantially resolve the problem.

From a legal culture perspective, the restorative approach also faces considerable resistance. Many officials and the public still view drug abusers as criminals who deserve the harshest punishment. This narrative is reinforced by media coverage, which tends to portray users as part of criminal networks without distinguishing their level of involvement. This perception influences the attitudes of law enforcement officials, including judges, who are ultimately reluctant to use restorative powers for fear of being misunderstood as "soft" on drug crimes (Siregar, 2020).

In the spirit of restorative justice, a drug user undergoing rehabilitation is not being "forgiven" or "absolved of responsibility," but rather undergoing a healing process that directly impacts the individual and the surrounding community. Victim recovery and social reintegration are two crucial dimensions that serve as benchmarks for the success of this approach. However, because this approach is still unfamiliar and not yet embedded in Indonesian legal culture, restorative programs often lack full support from both the judiciary and the public.

On the other hand, the lack of national standardization for the implementation of restorative justice in drug cases has led to disparities between regions. In some regions, prosecutors and judges have begun implementing restorative justice principles, referring to Attorney General's Guidelines Number 18 of 2021 and Supreme Court Circular Letter (SEMA) Number 4 of 2010. However, in other regions, these guidelines are not implemented due to limited understanding, lack of resources, or even an unwillingness to change old practices. This situation creates legal uncertainty for perpetrators, as their legal fate depends more on geographic location than on the principles of justice, which should be uniform in a state governed by the rule of law.

Criticism can also be directed at the absence of an integrated monitoring system for the success of rehabilitation as a form of restorative justice implementation. Not all rehabilitation

institutions have a post-rehabilitation reporting and evaluation system. Without such a monitoring system, there is no guarantee that the recovery process is truly effective and sustainable. This is ironic because the primary goal of restorative justice is transformation, not merely procedural. Placement in a rehabilitation institution will only be meaningful if accompanied by systematic social and psychological recovery support (Anggraini, 2023).

Another aspect often overlooked in the implementation of restorative justice is family and community involvement. Much of the literature suggests that the successful recovery of drug addicts is largely determined by their immediate social environment. However, in the context of Indonesian law, family involvement in the sentencing process remains minimal. Criminal justice proceeds in a closed and formalistic manner, with no space for bringing together the perpetrator, family, medical personnel, and community in a dialogue forum, as ideally required in restorative justice practices. However, according to Article 6 of Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, the restorative justice approach requires deliberation between the relevant parties to reach a just resolution.

Therefore, integrating restorative justice into drug law enforcement requires more than just written regulations. It requires institutional reconstruction, intensive training for law enforcement officers, and a paradigm shift in viewing drug abusers as sick individuals in need of help, rather than as enemies of the state who must be imprisoned. The state must be present through consistent, structured, and measurable policies so that the restorative approach becomes more than just jargon in regulations, but truly present in practice.

CONCLUSION

Law enforcement against drug abusers in Indonesia has not yet fully transformed toward a restorative justice paradigm, although various regulations, such as Law Number 35 of 2009, Attorney General's Guidelines Number 18 of 2021, and Supreme Court Regulation Number 4 of 2010, have provided the necessary framework. In practice, drug abusers are still more often directed toward criminal prosecution than rehabilitation, due to weak institutional coordination, limited rehabilitation facilities, and resistance to a repressive legal culture. To achieve effective and equitable law enforcement, a collective commitment is needed to make restorative justice not merely an alternative but a mainstream approach to handling drug cases, prioritizing recovery, social reintegration, and sustainable prevention as more humane and impactful legal objectives.

BIBLIOGRAPHY

- Anggraini, D. (2023). *Evaluation of Social Rehabilitation-Based Recovery for Drug Addicts in Indonesia*. Jakarta: Institute for Public Health and Law Studies.
- National Narcotics Agency (BNN). (2022). *Annual Report of the BNN of the Republic of Indonesia 2022*. Jakarta: BNN RI.
- National Narcotics Agency (BNN). (2023). *Statistics on Case Handling and Rehabilitation of Narcotics Abusers in 2023*. Jakarta: BNN RI.
- Directorate General of Corrections. (2023). *Correctional Statistics Data 2023*. Jakarta: Ministry of Law and Human Rights of the Republic of Indonesia.
- Fitriani, R. (2021). "Restorative Justice in Handling Drug Abusers at the Police Level." *Journal of Law and Criminology*, 14(2), 122–139.
- Hidayat, S. (2022). *Social Reintegration in the New Correctional System*. Jakarta: Center for Law and Human Rights Studies.
- Kurniawan, A. (2022). "Implementation of Integrated Assessment in Drug Abuse Cases: Obstacles and Solutions." *Journal of Legal Reform*, 8(1), 33–47.

- Lestari, W. (2021). "Implementation of Restorative Justice for Drug Abusers: Legal and Sociological Perspectives." *Journal of Criminal Law*, 13(3), 89–103.
- Prasetya, M. (2022). "The Judge's Dilemma in Imposing Rehabilitation Sentences for Drug Abusers." *Nusantara: Journal of Legal Studies*, 11(1), 44–60.
- Ramadhan, T. (2021). *Failure of the Criminal Justice System in Addressing Drug Addiction*. Yogyakarta: Gema Insan Press.
- Siregar, H. (2020). "The Paradigm of Punishment vs. Rehabilitation in Narcotics Crimes." *Indonesian Journal of Criminology*, 6(2), 71–85.
- Republic of Indonesia Law Number 35 of 2009 concerning Narcotics.
- Guidelines of the Attorney General of the Republic of Indonesia Number 18 of 2021 concerning the Settlement of Criminal Cases Based on Restorative Justice.
- Circular Letter of the Supreme Court of the Republic of Indonesia Number 4 of 2010 concerning the Placement of Narcotics Abusers in Rehabilitation.
- Joint Regulation of the Supreme Court, Minister of Law and Human Rights, Minister of Health, Minister of Social Affairs, Attorney General, Chief of Police, and Head of BNN 2014 concerning Handling of Addicts and Victims of Narcotics Abuse in Rehabilitation Institutions.