



Research Paper

## Restorative Justice As A Non-Penal Solution In Narcotics Cases

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### Abstract

*The handling of narcotics cases in Indonesia is still dominated by a repressive criminal approach, despite Law Number 35 of 2009 providing a legal basis for the rehabilitation of addicts. This study examines the implementation of restorative justice within Indonesia's legal system using normative and empirical juridical methods. The findings show that the application of restorative justice remains limited due to regulatory disharmony, a lack of rehabilitation facilities, and weak coordination among law enforcement agencies. Therefore, regulatory strengthening is needed to make restorative justice an integral part of narcotics policy in Indonesia.*

**Keywords:** restorative justice, narcotics, rehabilitation, criminal justice system.

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### I. Background of the Problem

The handling of narcotics abuse in Indonesia is still heavily dominated by a repressive approach, even though Law No. 35 of 2009 mandates that addicts receive medical and social rehabilitation, not just imprisonment.<sup>1</sup> However, in practice, police and prosecutors more often choose to prosecute users, so rehabilitation programs do not run according to the legal mandate.<sup>2</sup>

The concept of restorative justice offers a more humane and effective legal approach through mediation mechanisms involving the rehabilitant, victims, and the community.<sup>3</sup> Supporting regulations such as Supreme Court Circular No. 4 of 2010 and Attorney General Regulation No. 18 of 2021 provide a legal basis for terminating prosecution against narcotics offenders eligible for rehabilitation.<sup>4</sup> Unfortunately, implementation in the field is still suboptimal, mainly due to low understanding by officials, limited resources and infrastructure, and the heavy stigma attached to addicts<sup>5</sup>.

According to the Cabinet Secretariat and the National Narcotics Agency (BNN), in 2022 as many as 31,868 addicts accessed rehabilitation services, an increase from 26,693 in 2021 and exceeding the National Medium-Term Development Plan (RPJMN) target of 27,000 people, although still far from the President's directive aiming for 100,000 people per year.<sup>6</sup> Nevertheless, only about 13,374 people were directly handled by BNN in 2022; the rest were managed by other partners.<sup>7</sup> Furthermore, BNN's rehabilitation capability index in

<sup>1</sup> Law of the Republic of Indonesia Number 35 Year 2009 concerning Narcotics, Articles 54 and 103.

<sup>2</sup> Cabinet Secretariat of the Republic of Indonesia, "Report on the Implementation of Narcotics Rehabilitation 2022," 2023.

<sup>3</sup> Sinaga, D. (2021). Restorative Justice in the Settlement of Narcotics Cases. *Journal of Law and Development*, 51(3), 275–289.

<sup>4</sup> Attorney General Regulation of the Republic of Indonesia No. 18 Year 2021 concerning Guidelines for Termination of Prosecution in Narcotics Cases.

<sup>5</sup> Laksana, A. (2022). Barriers to the Implementation of Narcotics Rehabilitation in Indonesia. *Journal of Law Enforcement*, 9(1), 45–60.

<sup>6</sup> National Narcotics Agency and Cabinet Secretariat of the Republic of Indonesia, "Narcotics Rehabilitation Data for 2022," 2023.

<sup>7</sup> National Narcotics Agency, "BNN Performance Report 2022," 2023.

2022 was recorded at 3.31 (on a scale of 1–4), and outpatient and inpatient service user satisfaction indices were 3.49 and 3.59 respectively (categorized as good to very good).<sup>8</sup> Community-based interventions (IBM) have also been implemented through 488 units in villages as efforts to expand access to rehabilitation.<sup>9</sup>

These facts demonstrate a significant gap between regulations supporting rehabilitation and the field reality, which still relies on imprisonment. In fact, the restorative justice model has great potential to reduce prison overcrowding, strengthen rehabilitation, and protect the rights of addicts as legal subjects and victims of dependency.

## **II. Research Method**

This study uses a normative juridical method by examining laws, court decisions, and legal literature related to the implementation of *restorative justice* in narcotics cases in Indonesia. This approach is complemented by an empirical juridical method through secondary data analysis from BNN reports, court case studies, and law enforcement policies.

The data is analyzed using a descriptive qualitative method to illustrate the implementation, challenges, and potential for strengthening restorative justice within Indonesia's criminal justice system.

## **III. Discussion**

The handling of narcotics cases in Indonesia remains dominated by a repressive penal approach. According to data from the National Narcotics Agency (BNN), in 2022 approximately 63% of narcotics cases resulted in imprisonment. This indicates that the retributive approach remains the dominant paradigm within Indonesia's criminal justice system. This approach views the offender as a criminal who must be punished, without considering aspects of recovery or rehabilitation.<sup>10</sup>

In fact, Law Number 35 of 2009 on Narcotics provides a legal basis that narcotics addicts are victims of abuse who should be rehabilitated rather than imprisoned. Articles 54 and 103 emphasize that medical and social rehabilitation are alternatives for narcotics addicts. Unfortunately, the implementation of these articles remains suboptimal due to a lack of understanding among law enforcement officers and limited rehabilitation facilities.<sup>11</sup>

The concept of restorative justice has begun to be explicitly adopted in several legal policies. The Supreme Court, through Circular Letter (SEMA) No. 4 of 2010, provides guidelines to judges to impose rehabilitation for narcotics addicts. However, a study at Mempawah District Court showed that most cases still ended in imprisonment, as integrated assessment recommendations were either unavailable or not optimally utilized.<sup>12</sup>

Additionally, the Attorney General's Regulation (Perja) No. 18 of 2021 grants prosecutors the authority to terminate prosecution of suspected narcotics addicts who qualify for rehabilitation. Nevertheless, its implementation remains limited due to weak inter-agency coordination and prosecutors' lack of awareness of assessment results.<sup>13</sup>

The National Police has also adopted Chief of Police Regulation No. 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice. However, in practice, its implementation is still insignificant. A study at Asahan Police Department recorded that out of hundreds of narcotics cases, only 12 were resolved through restorative justice mechanisms by mid-2023.<sup>14</sup>

One of the main challenges in implementing restorative justice is the disharmony between articles in the Narcotics Law. Article 127, which regulates addicts, is often overshadowed by the application of Articles 111 and 112, which carry heavier penalties, leading to addicts being treated as dealers. This practice is evident in many rulings at Surabaya District Court, where dealing articles are more frequently applied even when the defendant is merely a user.<sup>15</sup>

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<sup>8</sup> National Narcotics Agency, "Capability and Satisfaction Index of Rehabilitation Services 2022," 2023.

<sup>9</sup> National Narcotics Agency, "Community-Based Intervention Program 2022," 2023.

<sup>10</sup> *Ibid.*

<sup>11</sup> Cabinet Secretariat of the Republic of Indonesia. (2023). *Report on the Implementation of Narcotics Rehabilitation 2022*. Jakarta: Cabinet Secretariat. Retrieved from <https://setkab.go.id>

<sup>12</sup> Nestor, R. (2021). Implementation of Rehabilitation in Judges' Decisions on Narcotics Addicts at Mempawah District Court. *Journal of Law & Development*, 51(3), 545–563. <https://doi.org/10.21143/jhp.vol51.no3.2897>

<sup>13</sup> UNES Law Review. (2023). Juridical Analysis of Attorney General Regulation No. 18 of 2021 in Handling Narcotics Abusers. *UNES Law Review*, 5(1), 32–45.

<sup>14</sup> Meta Hukum. (2023). *Evaluation of the Implementation of Restorative Justice in Narcotics Case Handling by the Police*. Meta Hukum, June 2023 edition. Retrieved from <https://metahukum.id>

<sup>15</sup> Institute for Criminal Justice Reform (ICJR). (2017). *Critical Notes on the Implementation of Article 127 of the Narcotics Law*. Jakarta: ICJR. Retrieved from <https://icjr.or.id>

Moreover, the limited number of accredited rehabilitation facilities and the low number of assessments have made it difficult to effectively implement restorative justice. The Constitutional Court, through Decision No. 25/PUU-XIV/2015, has affirmed that addicts have the right to rehabilitation instead of imprisonment, but in practice, this is often ignored due to the rigidity of the legal system and a still-conservative legal culture.

Juridically, the restorative justice approach aligns with the principle of recovery embedded in the modern criminal law system. International legal instruments such as the United Nations Office on Drugs and Crime (UNODC) also encourage member states to prioritize rehabilitative approaches in handling drug abusers.

From a human rights perspective, imprisoning addicts contradicts their right to health and recovery. Therefore, restorative justice should be established as a binding positive legal norm through amendments to the Narcotics Law, so it does not rely solely on the discretion of law enforcement officers.

#### **IV. Conclusion**

The handling of narcotics cases in Indonesia still heavily relies on criminal sanctions with imprisonment, despite Law No. 35 of 2009 stipulating rehabilitation as an alternative for addicts. The implementation of restorative justice in the criminal justice system remains limited due to disharmony between articles within the Narcotics Law, lack of accredited rehabilitation facilities, and weak coordination among the police, prosecutors, and courts. Additionally, low utilization of integrated assessments hampers the provision of rehabilitation. Therefore, regulatory revision and capacity building for law enforcement officers are necessary to enable effective restorative justice that ensures protection and proper recovery for narcotics addicts.

#### **References**

- [1]. Attorney General Regulation of the Republic of Indonesia No. 18 of 2021 on Termination of Prosecution Based on Restorative Justice.
- [2]. Cabinet Secretariat of the Republic of Indonesia. (2023). *Report on the Implementation of Narcotics Rehabilitation 2022*. Jakarta: Cabinet Secretariat. Retrieved from <https://setkab.go.id>
- [3]. Chief of Police Regulation of the Republic of Indonesia No. 8 of 2021 on Handling Criminal Acts Based on Restorative Justice.
- [4]. Constitutional Court Decision No. 25/PUU-XIV/2015 on Rehabilitation Rights for Narcotics Addicts.
- [5]. Institute for Criminal Justice Reform (ICJR). (2017). *Critical Notes on the Implementation of Article 127 of the Narcotics Law*. Jakarta: ICJR. Retrieved from <https://icjr.or.id>
- [6]. Law of the Republic of Indonesia No. 35 of 2009 concerning Narcotics.
- [7]. Meta Hukum. (2023). *Evaluation of the Implementation of Restorative Justice in Narcotics Case Handling by the Police*. Meta Hukum, June 2023 edition. Retrieved from <https://metahukum.id>
- [8]. National Narcotics Agency. (2023). *Annual Report of the National Narcotics Agency 2022*. Jakarta: BNN.
- [9]. Nestor, R. (2021). Implementation of Rehabilitation in Judges' Decisions on Narcotics Addicts at Mempawah District Court. *Journal of Law & Development*, 51(3), 545–563. <https://doi.org/10.21143/jhp.vol51.no3.2897>
- [10]. Supreme Court of the Republic of Indonesia. (2010). *Supreme Court Circular Letter (SEMA) No. 4 of 2010 on Placement of Drug Abusers, Victims of Abuse, and Addicts in Medical and Social Rehabilitation Institutions*. Jakarta: Supreme Court.
- [11]. UNES Law Review. (2023). Juridical Analysis of Attorney General Regulation No. 18 of 2021 in Handling Narcotics Abusers. *UNES Law Review*, 5(1), 32–45.
- [12]. United Nations Office on Drugs and Crime. (2020). *Drug Dependence Treatment: Interventions for Drug Users in the Criminal Justice System*. Vienna: UNODC. Retrieved from <https://www.unodc.org>