



Paradigm transformation in narcotics law enforcement: Implementation of restorative justice for narcotics abuse victims

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Abstract

Narcotics law enforcement in Indonesia has traditionally been dominated by a retributive paradigm that prioritizes incarceration, contributing to severe prison overcapacity without addressing underlying drug dependency. This study analyzes the paradigm shift toward restorative justice for narcotics abusers categorized as victims. Utilizing a socio-legal approach, this research evaluates the efficacy of Attorney General Guidelines No. 18/2021 and Police Regulation (Perpol) No. 8/2021 in diverting criminal processes toward medical and social rehabilitation. Findings indicate that while the Integrated Assessment Team (TAT) provides a framework for humane treatment, systemic barriers—such as the scarcity of public rehabilitation facilities, inter-agency coordination challenges, and deep-seated societal stigma—persist. Evidence from local jurisdictions, such as the Bandung City Police (Polresta Bandung), suggests that localized, proactive training for investigators is pivotal in identifying candidates for restorative justice early in the investigation stage. The study concludes that strengthening rehabilitation infrastructure and harmonizing institutional perceptions are absolute prerequisites for transforming law enforcement into a recovery-oriented system.

Keywords: Narcotics, restorative justice, rehabilitation, law enforcement, Polresta Bandung

Introduction

Background

Indonesia currently faces serious challenges in narcotics law enforcement. For decades, a retributive approach prioritizing imprisonment has been the primary instrument for responding to narcotics abuse. While intended to serve as a deterrent, this policy has triggered new systemic issues, namely prison overcapacity in nearly all correctional facilities (*Lapas*) in Indonesia.

Data indicates that the majority of inmates are narcotics abusers who should be treated as victims (patients) in need of recovery, rather than criminals who must be imprisoned alongside dealers or traffickers. Imprisoning narcotics abusers without adequate rehabilitation risks worsening their mental and physical health and increases the potential for recidivism due to limited access to medical and social recovery.

Recognizing the failure of this retributive paradigm, the Indonesian criminal justice system has begun to shift toward a restorative justice paradigm. This is marked by the issuance of Police Regulation (Perpol) Number 8 of 2021 on Handling Criminal Acts Based on Restorative Justice and Attorney General Guideline Number 18 of 2021 on Resolving Narcotics Abuse Cases through Rehabilitation. This policy is a progressive step in strictly distinguishing the legal position of a "trafficker" from an "abuser or victim." However, in practice, the implementation of this policy still faces serious challenges, ranging from the complexity of the Integrated Assessment Team (TAT) process to the limited availability of rehabilitation facilities.

Problem Formulation

Based on the background above, the problem formulations in this article are:

1. How has the paradigm of narcotics law in Indonesia shifted from a retributive approach to a restorative justice approach for narcotics abusers?
2. How effective is the implementation of Attorney General Guideline No. 18/2021 and Perpol No. 8/2021 in protecting narcotics abusers categorized as victims at the investigation and prosecution levels?
3. What are the juridical and technical obstacles in applying restorative justice for narcotics abusers within the Indonesian legal jurisdiction?

Objectives

This article aims to:

1. Analyze the philosophical and juridical foundations of the paradigm shift in narcotics law enforcement in Indonesia.
2. Evaluate the practice of implementing restorative justice in narcotics cases for abusers categorized as victims.
3. Provide strategic recommendations for law enforcement officials and policymakers to optimize the rehabilitation function as a humane and effective form of restorative justice.

Benefits

- **Theoretical Benefits:** Contribute to the development of criminal law discourse, specifically in the study of criminology and narcotics legal policy in Indonesia.
- **Practical Benefits:** Serve as evaluation material for law enforcement officials (particularly police investigators and prosecutors) in applying legal discretion and performing targeted assessments so that rehabilitation policies can align with humanitarian goals and legal certainty.

Research Methods

1. Type of Research

This study uses **normative-empirical legal research** (*socio-legal research*). This approach was chosen because the article analyzes not only legal norms (*law in books*) but also the effectiveness and implementation of those rules in practice (*law in action*).

2. Research Approach

2.1 Statute Approach: Used to examine the consistency between the Narcotics Law and derivative regulations like Perpol No. 8/2021 and Attorney General Guideline No. 18/2021.

2.2 Conceptual Approach: Used to explore the concepts of restorative justice, progressive law theory, and victim protection in the criminal justice system.

2.3 Case Approach: Used to critically review how rehabilitation policies are applied to actual narcotics abuse cases.

3. Data Sources

3.1 Secondary Data: Consists of primary legal materials (Narcotics Law, Perpol, Attorney General Guidelines, Criminal Procedure Code) and secondary legal materials (legal textbooks, scientific journals, previous research reports, and policy articles).

3.2 Primary Data: Obtained through participant observation, in-depth interviews with law enforcement practitioners (investigators, prosecutors, or TAT assessors), and statistical data on narcotics case handling.

4. Data Collection and Analysis

4.1 Data Collection: Conducted through *library research* and field interviews/observations.

4.2 Data Analysis: Data is analyzed qualitatively and descriptively to provide a comprehensive overview, with conclusions drawn using deductive reasoning.

Results and Discussion

1. Paradigm Shift: From Punitive to Restorative

The narcotics law enforcement paradigm in Indonesia is undergoing a fundamental shift from *retributive justice* to *restorative justice*. Theoretically, retributive approaches view narcotics abuse as a crime against the state punishable by prison. However, from the perspective of Progressive Law (as proposed by Satjipto Rahardjo), the law must serve humanity, not the other way around.

2. Implementation of Attorney General Guideline No. 18/2021 and Perpol No. 8/2021

2.1 Crucial Role of Assessment: The Integrated Assessment Team (TAT) determines if a suspect is a "pure abuser," "addict," or "trafficker."

2.2 Police Discretion: Perpol No. 8/2021 authorizes investigators to terminate investigations for eligible cases.

2.3 Prosecutorial Synergy: Attorney General Guideline No. 18/2021 ensures that victims receive their right to rehabilitation rather than purely administrative case transfers.

3. Challenges and Realities in the Field

▪ **Disparities in Rehabilitation Facilities:** Access gaps between urban areas (e.g., Bandung) and remote regions hinder the execution of rehabilitation recommendations.

▪ **TAT Coordination Problems:** Inter-agency bureaucratic hurdles (Police, BNN, medical staff) and differing perceptions of "addict criteria" cause hesitation among investigators.

▪ **Stigma and Resistance:** The belief that rehabilitation is an "escape" rather than a cure persists among both the public and some conservative law enforcement officials.

4. Practical Analysis: The "Front Line" Model at Polresta Bandung

Polresta Bandung serves as an interesting pilot project:

4.1 Early Screening Strengthening: Investigators integrate Perpol No. 8/2021 from the initial investigation stage, successfully minimizing unnecessary interactions between victims and the prison environment.

4.2 Facility Accessibility Synergy: Proximity to regional hospitals and rehab centers in Bandung facilitates TAT execution, though technical barriers regarding "rehabilitation costs" for low-income families remain.

4.3 Psychosocial Barriers: Even in progressive urban settings, the "prison is the only fair punishment" mindset requires investigators to engage in educational outreach to families to break the addiction cycle.

5. Justice Perspective

Using John Rawls' theory of **Distributive Justice**, this system provides a fair portion to those requiring health recovery, measuring justice not by "length of imprisonment" but by "the extent to which the individual is restored to society."

Closing

Conclusion

The transformation toward restorative justice is a progressive step aligned with humanitarian values. While successful in theory, it remains suboptimal due to TAT objectivity issues, facility shortages, and deep-seated societal stigma. Rehabilitation must be viewed as a medical and social effort to restore the abuser's social function.

Recommendations

1. Strengthen Rehabilitation Infrastructure: Increase government-funded rehab centers in regional areas.

2. Harmonize Inter-Institutional Understanding: Conduct joint training for police, prosecutors, and BNN to unify perception on categorization.

3. Continuous Public Awareness: Educate the public on the difference between abusers and traffickers to reduce stigma.

4. Strengthen Regional Investigator Roles: Provide continuous training for investigators (e.g., at the Polsek/Polresta level) to better identify restorative justice candidates early.

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