



A paradigm shift in drug law enforcement: Implementing restorative justice for victims of drug abuse

La Idul¹, Dr. Bambang Slamet Riyadi², Dr. Riza Zulfikar²

¹ Faculty of Law, Universitas Langlangbuana, Kota Bandung, Jawa Barat, Indonesia

² Lecturer of Law, at Faculty of Law, Universitas Langlangbuana, Kota Bandung, Jawa Barat, Indonesia

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 (IAT) 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

Indonesia currently faces serious challenges in enforcing drug-related criminal laws, particularly in addressing the rising number of drug abuse cases. For decades, the dominant approach has been a retributive paradigm that emphasizes incarceration as the primary form of law enforcement. Although intended to serve as a deterrent, this approach has instead created systemic problems, particularly prison overcrowding in various regions.

Empirical evidence shows that the majority of prison inmates are drug users who should be viewed as victims, not criminals. Incarceration without adequate rehabilitation not only fails to address the root causes of addiction but also risks worsening the physical and psychological well-being of drug users. Furthermore, limited access to recovery programs increases the risk of recidivism and perpetuates the cycle of substance abuse. In response to the limitations of the retributive approach, the legal system in Indonesia has begun to shift toward a restorative justice paradigm. This shift is reflected in the issuance of Police Regulation No. 8 of 2021 and Attorney General's Guideline No. 18 of 2021, which provide room for case resolution through rehabilitation mechanisms. These policies mark an effort to clearly distinguish between drug dealers and users, who are categorized as victims.

However, the implementation of this policy still faces various challenges. The complexity of the Integrated Assessment Team (IAT) process, limited rehabilitation facilities, and differing perceptions among law enforcement officials are the main obstacles to the optimal implementation of restorative justice.

Therefore, this article aims to analyze the paradigm shift in narcotics law enforcement in Indonesia and to evaluate the effectiveness of implementing restorative justice for drug users who are classified as victims

Research Methods

This study employs a socio-legal approach that combines a normative analysis of legislation with an empirical examination of its implementation in the field. The normative approach is used to examine various relevant regulations, including the Narcotics Act, Police Regulation No. 8 of 2021, and Attorney General's Guideline No. 18 of 2021.

Meanwhile, the empirical approach is employed to understand the practical application of these policies within the criminal justice system, particularly at the investigation and prosecution stages. The data utilized includes primary legal sources, secondary legal sources, and field data obtained through observation and case studies. Data analysis was conducted qualitatively using a descriptive-analytical method to systematically describe the issues under study and draw logical conclusions.

Discussion

a. A Paradigm Shift: From Retributive to Restorative

The paradigm shift in drug law enforcement in Indonesia is currently undergoing a fundamental transformation, moving from retributive justice toward restorative justice. Theoretically, the retributive approach views drug abuse as a violation against the state that must be punished with imprisonment. However, from the perspective of Progressive Law (as conceived by Satjipto Rahardjo), the law must serve humanity, not the other way around.

In the case of narcotics users, this new paradigm recognizes that they are victims of a health disorder (addiction) requiring medical treatment. The application of restorative justice in narcotics cases is not a form of impunity, but rather a shift in the legal orientation from "punishing the act" to "restoring the situation" through rehabilitation mechanisms.

b. The Implementation of Restorative Justice Policies

The implementation of these two regulations at the investigation and prosecution stages highlights several key points:

- 1. The Crucial Role of Assessment:** The use of the Integrated Assessment Team (IAT) serves as the primary mechanism for determining the classification of suspects. The IAT's assessment divides suspects into "pure users," "addicts," or "dealers," and determines whether an individual is eligible for restorative justice or must proceed to the court process.
- 2. Police Discretion:** In practice at the investigative level, the discretion granted by Police Regulation No. 8 of 2021 empowers investigators to terminate an investigation. This effectively reduces the caseload on the police and prevents drug users from "interacting" with serious criminals in detention.
- 3. Synergy Within the Prosecutor's Office:** Attorney General's Directive No. 18 of 2021 provides prosecutors with the authority to ensure that those classified as victims actually receive their right to rehabilitation, rather than merely undergoing an administrative transfer of their cases.

c. Implementation Challenges in the Field

Based on empirical analysis, there are three main challenges in implementing this policy:

- 1. Disparities in Rehabilitation Facilities:** The gap in access between urban areas (such as the Bandung City Police District, which has better access to hospitals or rehabilitation centers) and remote areas often makes it difficult to actually implement "rehabilitation" recommendations.
- 2. TAT Coordination Issues:** The assessment process is often hindered by bureaucratic coordination between agencies (the Police, the National Narcotics Agency, and medical personnel). Differences in perception regarding "criteria for drug users" at the field level sometimes lead investigators to hesitate in taking steps to discontinue cases.
- 3. Stigma and Resistance:** There remains a view that rehabilitation is a form of "pardon" that lacks a deterrent effect, both in the eyes of the public and among some law enforcement officials who still hold conventional mindsets.

d. Analysis of Practices at the Bandung City Police Department

The implementation of restorative justice at the local level exhibits varying dynamics depending on the capacity and readiness of local law enforcement officials. The Bandung City Police Department can be viewed as an interesting pilot project in the application of police discretion based on restorative justice.

Based on empirical observations, there are several specific strengths and challenges at the Bandung City Police:

- 1. Strengthening Early Screening:** Investigators at the Bandung City Police have begun integrating an understanding of Police Regulation No. 8 of 2021 from the initial stages of the investigation. This success is driven by ongoing training for officers at the precinct

level regarding the criteria for "pure users." By conducting accurate initial identification, investigators are able to minimize unnecessary interaction between substance abuse victims and the detention environment, which risks exacerbating their dependency.

- 2. Synergy with Facility Accessibility:** Unlike remote areas, the Bandung City Police Department has a geographical advantage in the form of better access to various public hospitals and rehabilitation centers in the Greater Bandung area. This facilitates the implementation of rehabilitation recommendations by the TAT. However, challenges remain regarding the availability of "rehabilitation costs" for low-income families, which often become a technical barrier, even though the legal.
- 3. Psychosocial Barriers:** Although the Bandung City Police Department is technically more progressive in implementing rehabilitation, the challenge of social stigma in urban areas remains quite strong. Field officers often face pressure from families or the surrounding community who still believe that "prison is the only fair form of punishment." Therefore, the steps taken by investigators at the Bandung City Police are not only legal but also educational; that is, explaining to the offenders' families the fundamental difference between prison sentences and medical treatment as a way to break the cycle of addiction.

e. Analysis from a Justice Perspective

According to John Rawls' theory of **distributive justice**, this system seeks to ensure that those who genuinely need rehabilitation receive a fair share compared to those who deliberately profit from the illicit drug trade. Justice is no longer measured by "how long the offender is imprisoned," but rather by "to what extent the offender is rehabilitated so as no longer to be a burden on society and the state."

Conclusion

In conclusion, the paradigm shift in narcotics law enforcement through a restorative justice approach represents a progressive step that aligns with the spirit of humanity and legal justice in Indonesia. The implementation of Attorney General's Guideline No. 18 of 2021 and Police Regulation (Perpol) No. 8 of 2021 has provided a strong legal foundation for investigators and prosecutors to differentiate between the treatment of drug dealers and users (victims). However, this transformation has not yet been fully optimized. The success of restorative justice in narcotics cases heavily depends on the objectivity of the Integrated Assessment Team (TAT) as well as the availability of adequate rehabilitation facilities. Furthermore, a shift in mindset is needed among law enforcement officials and the public so that rehabilitation is no longer viewed as a form of impunity, but rather as a medical and social effort to restore the social functioning of drug users within the community.

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