



The Implementation of Restorative Justice in the Rehabilitation of Drug Offenders: A Case Study of Decision Number 7/Pid.Sus/2021/PN.Tmt

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Abstract: The restorative justice approach in the criminal justice system has emerged as an alternative in addressing drug abuse, focusing on rehabilitation rather than imprisonment. This study evaluates the implementation of restorative justice in Decision No. 7/Pid.Sus/2021/PN.Tmt, examining the role of the legal system in determining whether drug abusers qualify for rehabilitation. A juridical-normative and juridical-sociological approach was employed to analyze regulations and judicial practices related to rehabilitation. The key findings indicate that rehabilitation is a more effective alternative to imprisonment, considering the integrated assessment conducted by the National Narcotics Agency (BNN) to determine the severity of addiction. However, the main challenges in implementing restorative justice include limited rehabilitation facilities, inconsistency in judicial decisions, and social stigma against drug users. This study concludes that harmonizing regulations and enhancing law enforcement officers' understanding of restorative justice are essential to optimizing rehabilitation implementation in Indonesia's legal system. With a more inclusive approach, the judiciary can adopt a more humane and effective method in handling drug abuse cases.

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Introduction

Drug abuse has become one of the primary challenges within the criminal justice system in Indonesia. The consequences of this issue are far-reaching, affecting social, health, economic, and legal aspects. Statistically, the majority of drug abusers belong to the productive age group, which ultimately impacts the sustainability of the nation's social and economic development (Fauzi & Fajar Al Arif F, 2022). The existing legal system in Indonesia frequently adopts a repressive approach toward individuals involved in narcotics abuse (Sari et al., 2019), focusing more on incarceration rather than rehabilitation. However, various studies have shown that this approach is

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ineffective in reducing recidivism rates and, in fact, exacerbates social issues due to the stigma attached to former convicts in drug-related offenses (Septia Saputri, 2023).

With the advancement of modern criminal law, the concept of restorative justice has emerged as an alternative approach in addressing drug abuse cases. Restorative justice aims to restore balance among the interests of the victim, the offender, and society by prioritizing rehabilitation over punishment (Arief & Ambarsari, 2018). In the context of drug offenses, restorative justice offers a more humane approach, focusing on the physical and mental recovery of the drug abuser, as well as their social reintegration. The implementation of restorative justice within the criminal justice system has been supported by various regulations, including the Attorney General's Guidelines No. 18 of 2021 and the Indonesian National Police Regulation No. 8 of 2021, which provide a framework for drug offenders to receive rehabilitation as part of their legal process (Naufal Hibatullah et al., 2024).

However, the implementation of restorative justice in Indonesia continues to face significant challenges. Several factors, including the public's limited understanding of restorative justice, divergent legal interpretations among law enforcement agencies, and the insufficient availability of rehabilitation facilities, pose major obstacles to the effectiveness of this program (Saputra & Taufiq, 2024). A considerable number of law enforcement officials still favor a repressive approach in handling drug-related cases, as it is perceived to be quicker and more in line with existing legal frameworks (Akrom et al., 2024). Furthermore, the prevailing stigma surrounding drug offenders remains strong within society, making it difficult for individuals to receive the necessary social support for rehabilitation (Afriani & Merrita, 2023).

As a solution, the restorative justice-based rehabilitation system must be strengthened through regulatory improvements and enhanced capacity building for law enforcement officials in understanding the concept of restorative justice. Countries with rehabilitative policies have shown more positive results in reducing drug abuse rates compared to those that solely rely on punitive measures (Kristiani, 2022). Medical and social rehabilitation play a crucial role in this system, focusing on the physical and psychological recovery of substance abusers to enable their reintegration and functional participation in society (Firmansyah, 2022).

Several key factors influence the success of rehabilitation, including comprehensive assessment, family support, and the availability of adequate rehabilitation facilities (Vidiasari, 2024). A comprehensive assessment ensures that each substance user receives care corresponding to the severity of their addiction. Meanwhile, family involvement in the recovery process enhances the user's motivation to complete the rehabilitation program. Furthermore, the rehabilitation system must be equipped with supportive facilities, such as professional medical staff, psychological therapy programs, and ongoing social support (Naufal Hibatullah et al., 2024).

In various countries, comparisons between repressive and rehabilitative approaches to drug abuse reveal contrasting outcomes. Nations employing a rehabilitative approach, such as Portugal and the Netherlands, have witnessed a reduction in drug abuse rates following the implementation of recovery-based policies. Conversely, countries that prioritize imprisonment continue to experience an increase in recidivism, as individuals suffering from addiction are not provided with long-term solutions to address their underlying issues (Akrom et al., 2024). Therefore, Indonesia should draw lessons from international best practices to enhance its domestic narcotics rehabilitation system.

Despite numerous challenges, the implementation of restorative justice in the rehabilitation of drug offenders in Indonesia holds significant potential for success. However, several gaps in the legal system need to be addressed, such as the lack of regulatory harmonization between the Narcotics Law and rehabilitation policies, as well as insufficient infrastructure to support effective rehabilitation services. Furthermore, a systematic approach is required to shift the paradigm of law enforcement officials and society towards drug offenders in a manner that fosters greater support for rehabilitation programs based on restorative justice principles.

This study aims to analyze the application of restorative justice in the rehabilitation of drug offenders and how it can enhance the effectiveness of the criminal justice system in Indonesia. The research contributes to a deeper understanding of how restorative justice can be utilized to reform the existing legal framework, while also offering policy recommendations that can be implemented to strengthen drug rehabilitation programs. Through a restorative-based approach, Indonesia's criminal justice system can shift towards long-term solutions that not only reduce recidivism but also improve overall social well-being.

Methods

The methodology employed in this study combines a normative legal approach with a sociological legal approach, supported by an analysis of judicial decisions, to understand how the principle of restorative justice is applied within the criminal justice system. This research utilizes the normative legal method, which focuses on the examination of statutes and legal doctrines related to the rehabilitation of drug offenders within the framework of restorative justice (Febriyanthi et al., 2018). This approach is used to identify, evaluate, and critique existing legal policies to assess the alignment between legal norms and rehabilitation practices in the field (Arief & Ambarsari, 2018). Additionally, the study also adopts a sociological legal approach, aimed at understanding how the implementation of restorative justice in drug rehabilitation functions at the practical level through social analysis and the interactions among actors within the criminal justice system (Saputra & Taufiq, 2024).

Data in this study are secondary data, obtained through literature review and

analysis of legal documents related to rehabilitation policies and the implementation of restorative justice. Secondary data are utilized to examine the development of the law as well as the effectiveness of restorative justice in the rehabilitation of drug offenders. The legal materials used in this research consist of three types: Primary legal materials, which include relevant legislation such as Law No. 35 of 2009 on Narcotics, the Supreme Court Regulation No. 4 of 2010 on Narcotics Rehabilitation, and the Indonesian National Police Regulation No. 8 of 2021 on Restorative Justice in Narcotics Cases. Secondary legal materials, which consist of academic literature, scholarly journals, legal books, and academic studies discussing restorative justice and narcotics rehabilitation. Tertiary legal materials, which include legal encyclopedias, legal dictionaries, and various other reference sources that provide additional context to the research issue.

Data were collected through a literature review, which involved examining various relevant legal sources such as statutes, academic journals, and previous research documents. Additionally, this study analyzed judicial decisions to understand how the principle of restorative justice is applied within the drug-related justice system. The case study used in this research is Decision No. 7/Pid.Sus/2021/PN.Tmt, which serves as an example of the application of rehabilitation in cases of drug abuse.

A case study of court rulings was employed as the primary instrument for evaluating the application of restorative justice within the rehabilitation system for drug offenders. This approach offers several advantages: 1) Evaluation of Restorative Justice Implementation – Through the analysis of court rulings, it is possible to assess the extent to which the principles of restorative justice are applied in drug-related cases, including the judges' considerations in opting for rehabilitation over imprisonment. 2) Identification of Ruling Patterns – The case study method allows for the analysis of patterns and consistency in the application of restorative justice across different legal jurisdictions. This enables the identification of factors influencing judicial decisions to impose rehabilitation sentences. 3) Social Impact – Analyzing court rulings also provides insights into how restorative justice affects the social reintegration process of drug offenders following rehabilitation (Firmansyah, 2022).

The data were analyzed qualitatively by grouping, classifying, and evaluating the legal materials obtained. This analysis was carried out in several stages: 1) Interpretation of Regulations – Identifying and assessing the relevance of legislation to the application of restorative justice in narcotics rehabilitation. 2) Comparative Law – Comparing the practice of restorative justice in narcotics courts in Indonesia with approaches implemented in other countries. 3) Critical Analysis of Court Decisions – Evaluating the decisions that have been analyzed in order to understand the challenges and opportunities in the application of restorative justice in narcotics rehabilitation.

Results and Discussion

A Case Study of Decision Number 7/Pid.Sus/2021/PN.Tmt

This study examines the implementation of restorative justice in the rehabilitation of drug offenders through a case study of Decision No. 7/Pid.Sus/2021/PN.Tmt. In this case, the defendant, Ruis Adam Alias Yosan, who was found guilty of possessing and using methamphetamine for personal consumption, was sentenced to rehabilitation. The court's decision was based on the consideration that the defendant was a drug user with an addiction. An analysis of the applicable regulations, as well as the court's reasoning in this case, reveals that, despite the existence of policies supporting rehabilitation, their practical implementation faces significant challenges within the judicial system in Indonesia.

The regulation regarding restorative justice in narcotics cases in Indonesia aims to treat drug users as victims in need of rehabilitation, rather than as offenders who should be imprisoned (Arief & Ambarsari, 2018). However, this study identifies a gap between policy and practice. Despite the emphasis on rehabilitation in the Supreme Court Circular Letter No. 4 of 2010 and Government Regulation No. 25 of 2011, many court rulings still result in imprisonment (Naufal Hibatullah et al., 2024). This occurs due to various factors, including limited understanding of the restorative justice concept among law enforcement officials, imbalances in the application of law, and social pressures to impose harsher penalties on narcotics offenders (Saputra & Taufiq, 2024).

In this case, the defendant was charged under Article 112 paragraph (1) in conjunction with Article 132 paragraph (1) of Law No. 35 of 2009 concerning Narcotics, which carries a potential sentence of 6 years and 6 months in prison and a fine of IDR 800,000,000. However, upon consideration, the court found that the defendant's use of narcotics was solely for personal consumption and that they were not involved in the narcotics trafficking network. Based on an assessment by the National Narcotics Agency (BNN), the defendant was diagnosed with severe narcotics dependence and required medical rehabilitation. Consequently, the panel of judges decided to apply an alternative charge under Article 127 paragraph (1) letter a of Law No. 35 of 2009 concerning Narcotics, which permits the defendant to undergo rehabilitation as a form of recovery (Fauzi & Fajar Al Arif F, 2022).

This decision reflects the principles of restorative justice within the criminal justice system, wherein the judge takes into account both the health and social aspects when determining the sentence. The rehabilitation provided aims to assist the defendant in overcoming their addiction and reducing the likelihood of recidivism. This approach aligns with prior research findings, which suggest that rehabilitative methods are more effective in reducing recidivism rates compared to custodial sentences. In several developed countries, restorative justice has become an integral component of

the criminal justice system, particularly in drug-related cases, with an emphasis on mediation, reconciliation, and comprehensive rehabilitative solutions (Firmansyah, 2022).

However, although this ruling demonstrates the application of restorative justice in drug rehabilitation, several challenges remain in its broader implementation. One of the primary challenges is the imbalance in the application of restorative justice across different regions, with some courts showing a stronger tendency to impose criminal penalties rather than opting for rehabilitation (Akrom et al., 2024). Furthermore, the limited availability of rehabilitation facilities presents a significant barrier to ensuring that all drug users receive appropriate care (Fauzi & Fajar Al Arif F, 2022). This study found that not all drug users eligible for rehabilitation have access to the available programs. Factors such as social stigma and a lack of family support often hinder the success of rehabilitation programs (Afriani & Merrita, 2023).

The recidivism rates between drug offenders who undergo rehabilitation and those who are incarcerated show a significant difference. Individuals who undergo rehabilitation exhibit lower recidivism rates compared to those who are sentenced to imprisonment (Pancasilawati & Noor, 2018). In this case study, the judge considered that rehabilitation could offer greater benefits to the defendant than imprisonment. This aligns with research indicating that comprehensive rehabilitation programs, including medical and social interventions, have a more positive impact in assisting individuals in overcoming their addiction (Firmansyah, 2022).

The implications of this ruling on legal policy in Indonesia are quite significant. This decision underscores that judges possess discretion in applying restorative justice in cases of drug abuse. With the legal framework supporting rehabilitation, more cases of a similar nature should ideally be addressed through a restorative justice approach (Kristiani, 2022). However, achieving this goal requires enhancing the capacity of law enforcement officials, particularly in terms of understanding the principles of restorative justice and how to apply them consistently in judicial rulings (Naufal Hibatullah et al., 2024).

From a social perspective, the rehabilitation implemented in this ruling has the potential to assist the defendant in reintegrating into society after completing the recovery program. This approach mitigates the negative consequences of the prison system, which often exacerbates the difficulties individuals face in reestablishing connections within their social environment (Fauzi & Fajar Al Arif F, 2022). However, the success of rehabilitation is also contingent upon external factors, such as family support, a conducive social environment, and the availability of continued rehabilitation programs after the defendant has completed the rehabilitation period mandated by the court.

Overall, this study demonstrates that the application of restorative justice in drug

rehabilitation holds significant potential for enhancing the effectiveness of the criminal justice system in Indonesia. However, for broader and more effective implementation, concrete steps are required, including regulatory harmonization, strengthening the capacity of law enforcement agencies, and improving access to rehabilitation facilities. By adopting restorative justice in a more consistent and systematic manner, Indonesia's criminal justice system can become more focused on long-term solutions that not only reduce recidivism but also contribute to the overall improvement of social welfare.

The Implementation of Restorative Justice in the Rehabilitation of Narcotics Offenders

The application of restorative justice in the rehabilitation of drug offenders aims to shift the criminal justice paradigm from a retributive approach to a more humane one (Sulung et al., 2023). Within the Indonesian legal system, the rehabilitation of drug offenders is strongly supported by the legal foundation provided in Law No. 35 of 2009 on Narcotics, which recognizes drug users as victims in need of medical and social rehabilitation (Hikmawati, 2011). This underscores that Indonesia's legal policy focuses not only on punishment but also on the recovery of individuals suffering from drug addiction. However, the implementation of this regulation often faces challenges in judicial practice.

In Case No. 7/Pid.Sus/2021/PN.Tmt, the judge considered the application of restorative justice by imposing a rehabilitation sentence on the defendant, Ruis Adam alias Yosan, who was found guilty of using narcotics for personal consumption. Although the defendant was initially charged with imprisonment under Article 112 paragraph (1) in conjunction with Article 132 paragraph (1) of Law No. 35 of 2009, the judge ultimately opted to apply Article 127 paragraph (1) letter a, which permits rehabilitation as an alternative to criminal punishment (Naufal Hibatullah et al., 2024). This decision reflects a shift in legal approach, prioritizing the rehabilitation of the individual over mere punitive measures.

The integrated assessment conducted by the National Narcotics Board (BNN) in this case indicates that the defendant suffers from severe drug addiction, thereby necessitating medical rehabilitation as a legal solution (Firmansyah, 2022). This assessment process is part of a law enforcement effort that emphasizes a more humanitarian and restorative approach, where the decision to pursue rehabilitation takes into account not only legal considerations but also the medical and social aspects of the defendant (Fauzi & Fajar Al Arif F, 2022). This highlights the need for collaboration between rehabilitation institutions and law enforcement agencies in upholding restorative justice.

However, this study identifies a gap in the implementation of restorative justice regulations in Indonesia. Despite the guidance provided by the Supreme Court Circular No. 4 of 2010, which recommends rehabilitation for drug addicts, many court rulings

continue to impose prison sentences on drug offenders (Akrom et al., 2024). Contributing factors to this issue include a lack of understanding among law enforcement officials regarding restorative justice, societal pressure to impose harsher penalties, and limited rehabilitation facilities. Additionally, the social stigma associated with drug offenders often serves as a significant barrier to the widespread adoption of rehabilitation measures (Kristiani, 2022).

A comparison with other countries reveals that the restorative justice approach to drug rehabilitation has been successfully implemented in several developed nations. In Portugal, for instance, the decriminalization policy allows drug users to access medical care and rehabilitation without facing criminal penalties. This has contributed to a decrease in drug abuse and recidivism rates. Meanwhile, in Switzerland, a harm reduction-based approach is implemented through methadone substitution programs, which assist drug users in reintegrating into society without facing stigma (Septia Saputri, 2023). A similar approach could be considered for implementation in Indonesia to ensure the sustainability of rehabilitation programs.

Furthermore, this study reveals that the success of rehabilitation is highly contingent upon support from both family and community. A supportive social environment enhances the effectiveness of rehabilitation and reduces the likelihood of recidivism (Afriani & Merrita, 2023). Conversely, in the absence of adequate support, individuals who have undergone rehabilitation are more likely to relapse into drug use. Therefore, rehabilitation programs in Indonesia must actively involve the community in supporting the recovery of drug offenders. From a legal policy perspective, this study recommends the harmonization of regulations to ensure the broader implementation of restorative justice within Indonesia's criminal justice system. Currently, there remains regulatory overlap in the Narcotics Law, which simultaneously guarantees rehabilitation while also allowing for the imposition of criminal penalties on offenders (Naufal Hibatullah et al., 2024). Additionally, enhancing training for law enforcement officials on the principles of restorative justice and rehabilitation will help bridge the gaps in policy implementation.

Decision No. 7/Pid.Sus/2021/PN.Tmt illustrates that judges may exercise legal discretion in applying restorative justice for drug offenders. However, to enhance the effectiveness of the judicial system, there must be alignment between criminal law regulations and rehabilitation practices. A concrete step to achieve this is to strengthen the role of integrated assessments to determine whether an offender is eligible for rehabilitation, as well as to expand access to rehabilitation services across various regions.

Based on the findings of this study, it can be concluded that rehabilitation, as a form of restorative justice within the criminal justice system for drug-related offenses in Indonesia, holds significant potential to reduce recidivism and improve the effectiveness of drug control policies. However, to attain greater success, a more holistic

approach is needed, one that includes policy harmonization, enhanced understanding among law enforcement, strengthening community involvement, and broadening access to rehabilitation services. Thus, the judicial system in Indonesia could become more focused on the rehabilitation of individuals, rather than merely imposing punitive measures that may not always be effective in addressing the issues of drug abuse.

Conclusion

This study underscores the significance of applying restorative justice in the rehabilitation of drug offenders as a more effective alternative to imprisonment. Based on an analysis of Decision No. 7/Pid.Sus/2021/PN.Tmt, it was found that rehabilitation can offer a more humane solution and provide drug users with an opportunity to recover and reintegrate into society. The implementation of restorative justice in rehabilitation is supported by existing regulations, such as Law No. 35 of 2009 on Narcotics and Supreme Court Circular No. 4 of 2010. However, its application still faces several challenges, including a lack of understanding among law enforcement officers, limited rehabilitation facilities, and the social stigma attached to drug offenders.

The main finding of this study indicates that the criminal justice system in Indonesia should prioritize rehabilitation over punishment, particularly for individuals who are convicted of drug use for personal consumption. The integrated assessment conducted by the National Narcotics Agency (BNN) in this case provides a strong foundation for judges to issue rehabilitation-based rulings, thereby clarifying that a restorative justice approach can be effectively implemented within the framework of national law.

The implications of this study highlight the need for clearer legal policy harmonization between aspects of punishment and rehabilitation, as well as the enhancement of law enforcement officials' capacity to understand and apply restorative justice within the criminal justice system. Furthermore, this study emphasizes the importance of social support from family and community in ensuring the success of rehabilitation. In comparison to legal systems in other countries, Indonesia faces challenges in balancing rehabilitation policies with the enforcement of law in a more inclusive manner.

The primary contribution of this research lies in providing insights into how the narcotic rehabilitation system can be strengthened through a restorative justice approach, and how the criminal justice system can become more humane in addressing drug abuse cases. Additionally, this study paves the way for further research, particularly in evaluating the effectiveness of existing rehabilitation programs, identifying factors that influence rehabilitation success, and examining restorative justice policy models that could be adapted from other countries to enhance the effectiveness of Indonesia's criminal justice system.

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