

LAW ENFORCEMENT BASED ON THE PRINCIPLE OF JUSTICE FOR ADDICTS AND VICTIMS OF DRUG ABUSE

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ABSTRACT

Drug addicts and victims of drug abuse are often positioned as perpetrators of crimes, rather than as individuals in need of help. The purpose of this study is to analyze the reformulation of legal policy to harmonize the interpretation of provisions and the application of articles in the Narcotics Law to achieve justice for drug addicts and victims of drug abuse and to analyze the law enforcement model based on the principle of justice for drug addicts and victims of drug abuse in the Indonesian criminal justice system. The research method used is normative juridical legal research. The research findings indicate that reformulating the Narcotics Law is crucial for aligning legal norms with practice, particularly to position addicts as subjects of rehabilitation, not criminals. This step aligns with the principles of restorative justice, the principle of legality, and the protection of human rights in the criminal justice system. Law enforcement for addicts must shift to a restorative and rehabilitative approach based on substantive justice. Regarding the reformulation of legal policy in the Narcotics Law, the Government and lawmakers should immediately reformulate it through revisions or derivative regulations to align the interpretation and practice of the articles, particularly regarding the position of addicts and victims as subjects entitled to rehabilitation, not criminal punishment. Courts, prosecutors, and the police should prioritize a rehabilitative approach based on the results of medical and social assessments to prevent unfair, repressive approaches. Regarding the justice-based law enforcement model, the Government and policymakers should immediately encourage the reformulation of narcotics policy with a restorative and rehabilitative approach, and consider the establishment of a Drug Treatment Court. Synergy between legal institutions, health institutions, and civil society needs to be strengthened to create a more humane system.

Keywords: Law Enforcement, Justice Principle, Addicts, Victim of Drug Abuse

INTRODUCTION

The problem of drug abuse in Indonesia has become a strategic national issue due to its systemic impacts on health, social, economic, and legal aspects. One emerging issue is how the state, through its criminal justice system, treats drug addicts and victims of drug abuse. In practice, the criminal law approach currently used tends to be repressive, emphasizing punishment without discriminating proportionally between perpetrators of drug trafficking crimes and addicts, who are actually victims of dependence on addictive substances.

The law should not be interpreted solely as a tool for punishment (punitive function), but also as a means to achieve substantive justice for all parties, including drug addicts and victims of drug abuse. Justice in this case cannot be measured solely by conformity to positive norms, but must be based on humanitarian values, protection of human rights, and restoration of the social and psychological well-being of victims.

Normatively, Law Number 35 of 2009 concerning Narcotics provides a significant opportunity to implement a rehabilitative approach. This is explicitly stated in Article 54, which states that drug addicts and victims of abuse are required to undergo medical and social rehabilitation. Furthermore, Article 103 stipulates that judges may decide to send addicts to rehabilitation institutions rather than correctional facilities. However, in practice, many law enforcement agencies fail to optimize these mechanisms and tend to continue using imprisonment, which is detrimental to victims and contradicts the goal of just law.

Disparities in law enforcement practices for drug addicts are exacerbated by multiple interpretations of legal provisions, as well as a lack of synergy between law enforcement officials, such as the police, prosecutors, judges, and the National Narcotics Agency (BNN), in deciding whether someone is worthy of rehabilitation or criminal prosecution. Furthermore, the national legal system has not fully adopted the restorative justice paradigm, which prioritizes recovery as the primary focus in handling cases involving drug abuse victims. Therefore, it is crucial to review the legal enforcement framework for drug addicts and drug abuse victims to align it more closely with the principles of justice.

Formulation of the Problem

Based on the description in the background section above, the formulation of the problem is:

- a. How can legal policy be reformulated to harmonize the interpretation of provisions and the application of articles in the Narcotics Law to achieve justice for drug addicts and victims of drug abuse?
- b. What is the model for law enforcement based on the principle of justice for drug addicts and victims of drug abuse in the Indonesian criminal justice system?

RESEARCH METHOD

The research used in this study is normative juridical legal research, namely research conducted by examining library materials or secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials. Normative legal research is research conducted through literature reviews to obtain secondary data originating from primary legal materials, secondary legal materials, and tertiary legal materials.

The research specifications used are descriptive-analytical, namely by describing the applicable laws and regulations in relation to legal theories and the practice of implementing positive law related to the problem. Normative legal research focuses on research based on literature reviews and secondary data in the form of legal materials.

The data collection technique used was a literature study. This research was conducted using a statute approach, a conceptual approach, and a comparative approach. The data analysis method used was the deductive method, a method of thinking that applies general principles first and then connects them to specific parts.

RESULT AND DISCUSSION

Reformulation of Legal Policy to Harmonize the Interpretation of Provisions and Application of Articles in the Narcotics Law in Order to Achieve Justice for Addicts and Victims of Narcotics Abuse

Legal policy reform is urgently needed to bridge the gap between the norms contained in the Narcotics Law and law enforcement practices in the field, particularly in the context of legal protection for drug addicts and victims of abuse. The mismatch between normative interpretation and operational implementation has given rise to serious problems in the form of criminalization of individuals who, medically, should be treated for rehabilitation, not for punishment.

Ideal legal policy should be directed at establishing a criminal justice system that differentiates between drug traffickers and addicts and victims of abuse. Addicts are individuals experiencing physical and psychological dependence and, from a legal perspective, cannot be equated with drug offenders. Therefore, legal policy reform is necessary, reaffirming that a rehabilitative approach must be the primary foundation, not merely an alternative, in the narcotics criminal justice system.

The first step in this reformulation is a revision of the normative provisions in the Narcotics Law, particularly Articles 54 and 103. The wording of Article 54, which states that addicts and victims of abuse are "obliged to undergo rehabilitation," must be explicitly emphasized in its implementing regulations, thereby eliminating the opportunity for law enforcement officials to ignore the obligation to undergo rehabilitation. Meanwhile, the phrase "may" in Article 103 paragraph (1) must be revised to "obligatory" to emphasize that rehabilitation is not a discretionary policy, but rather a legally binding mandate from the investigation stage to the court's decision.

The second step is the development of detailed and operational derivative regulations, such as Government Regulations or Presidential Regulations, that technically outline the mechanism for determining the status of addicts and victims of abuse through medical and social assessments. These provisions must ensure that the results of the Integrated Assessment Team are final and binding as the basis for rehabilitative case handling. This is crucial to avoid disparities in legal treatment and prevent procedural irregularities by law enforcement officials.

The third step is to strengthen inter-institutional coordination by establishing a specialized institution with limited jurisdiction to handle cases involving drug addicts and victims of drug abuse expeditiously, fairly, and humanely. This institution can serve as a bridge between the legal system and the healthcare system, and integrate legal approaches with medical and psychosocial recovery needs.

Legal policy reform also needs to be directed at integrating restorative justice and corrective justice approaches into the drug criminal justice system. This approach emphasizes individual recovery and rehabilitation, while preventing social stigma and discrimination against addicts. In this context, the law must be aligned with humanitarian values and oriented toward social recovery, rather than solely formalistic punishment.

As a state governed by the rule of law that upholds the principle of human rights protection, as mandated by Article 28G and Article 28H of the 1945 Constitution, the state is obligated to guarantee the right to health and fair treatment in the judicial system. Therefore, reformulating legal policy in the context of narcotics is a crucial instrument for realizing substantive justice and building a more adaptive, integrative, and transformative legal system.

There is a gap between law enforcement officials in two areas: victims of drug abuse (the demand side) and perpetrators or dealers (the supply side). When dealing with addicts, police typically treat them as dealers. More precisely, the Narcotics Law distinguishes between two categories of drug offenses. This means that the treatment of drug users is different from the treatment of perpetrators of drug trafficking crimes. In the context of the Narcotics Law, which addresses those affected by drug abuse, there is a consideration in letter a as follows: that the distribution

of healthy and equitable material and spiritual resources is crucial to realizing a prosperous, just, and prosperous Indonesian society in accordance with Pancasila and the 1945 Constitution.

The essence of legal policy reformulation in the context of the Narcotics Law is the need to restructure norms and their implementation systems to align with the goals of protecting and rehabilitating drug addicts and victims of drug abuse. The ambiguity in the formulation of articles governing rehabilitation, as well as the use of terms with multiple interpretations such as "can," have opened up the possibility of discriminatory legal treatment and led to a systemic failure to distinguish between addicts as victims and actual perpetrators of drug crimes. Therefore, reformulation is needed not only at the normative level through revision of the law, but also at the technical and institutional policy aspects, including the establishment of special mechanisms such as drug courts, strengthening the role of the Integrated Assessment Team, and cross-sectoral harmonization between law, health, and social affairs. This reformulation aims to ensure that law enforcement is no longer repressive towards addicts, but rather rehabilitative, in line with the principles of substantive justice and the protection of human rights.

Law Enforcement Model Based on the Principle of Justice for Drug Addicts and Victims of Drug Abuse in the Criminal Justice System in Indonesia

Law enforcement against drug addicts and victims of drug abuse in Indonesia still faces serious challenges in terms of consistency, effectiveness, and fairness. This is due to the repressive nature of the existing legal system, where drug addicts and abusers are more often treated as criminals rather than as patients in need of recovery. This model of law enforcement not only violates the spirit of the Narcotics Law, which prioritizes rehabilitation, but also creates issues of injustice and human rights violations.

The ideal law enforcement model should not position addicts and abusers as objects of punishment, but rather as subjects of protection and recovery through a health approach. This aligns with the principle of substantive justice, which transcends formal legality and considers the context and individual circumstances within a social framework. In the context of drug use for personal gain, the ideal legal approach should emphasize restorative justice and therapeutic jurisprudence—law that heals, not punishes.

From a legal and normative perspective, the Narcotics Law contains provisions on rehabilitation for drug addicts and victims of drug abuse, in Articles 54, 55, and 103. However, in practice, these provisions remain declaratory and insufficiently binding on law enforcement. This has resulted in the continued widespread use of prison sentences for drug addicts, despite the law's primary aim being to decriminalize the use of narcotics for personal use in limited quantities.

Within the institutional framework, the National Narcotics Agency (BNN), the Police, the Prosecutor's Office, and the Courts all play crucial roles in establishing a fairer handling system. However, coordination between these institutions is often inconsistent, particularly in the integrated assessment process. Therefore, institutional strengthening is needed to encourage the active participation of medical personnel, psychologists, and social workers as part of the narcotics criminal justice system.

Guarantees for medical and social rehabilitation efforts for drug addicts and victims of abuse are stipulated in Article 4 of the Narcotics Law, which explains the objectives of drug prevention efforts. Rehabilitation of drug addicts must be carried out immediately through sanctions such as counseling. Government agencies or community components can implement rehabilitation efforts. Until now, the general public has viewed drug users as lawbreakers who deserve severe punishment to deter them from repeating their actions. Law enforcement officials are encouraged to use the criminal justice system of imprisonment due to the public's misperception of drug addicts. Judges assess drug abuse charges filed by public prosecutors through the criminal justice system. By citing the drug distribution article, judges can be prosecuted and sentenced to prison. Investigations and prosecutions of drug abuse cases are carried out through the rehabilitation justice system in accordance with Article 127 of the Narcotics Law.

Judges' decisions can err in applying the law. When adjudicating drug abuse cases, the court will consider the prosecutor's indictment, which details drug distribution and potential prison sentences, as well as Article 182 of the Criminal Procedure Code, paragraphs (3) and (4). When deciding drug abuse cases based on the rehabilitation justice system of the Narcotics Law, the court must consider dependency. The Narcotics Law mandates that individuals who abuse drugs have access to rehabilitation programs provided by the legal system.

The theory of dignified justice may be the answer to the dilemma of how to treat drug abuse victims and addicts from a legal and health perspective within the criminal justice system. Systematically, the norms and principles of dignified justice operate within the legal realm. No part of the dignified justice system should conflict with any other part. Furthermore, the systemic theory of dignified justice states that the system can resolve conflicts if they arise from inconsistencies, contradictions, or overlapping components.

From an ontological perspective, the restorative justice approach emphasizes the fulfillment of justice that restores the state before the crime occurred, while the criminal justice approach emphasizes retributive justice and resocialization. Based on an axiological perspective, restorative justice emphasizes the realization of four things. First, it restores criminal law to its original purpose as the *ultimum remedium* (last resort) if other legal remedies and peace mechanisms fail. Second, it emphasizes the direct responsibility of the perpetrator to the victim for the crime. Third, it pays attention to the interests and protection of victims of crime. Fourth, it rebuilds a harmonious relationship between the victim and the perpetrator. Epistemologically, the restorative justice approach principally emphasizes the

realization of the concept of comprehensive deliberation and participation as a way to find the best solution to the problem of the crime, which includes fulfilling the interests of the victim, fulfilling the perpetrator's responsibilities, and restoring the relationship between the victim and the perpetrator.

The current structure of Indonesian criminal law demonstrates a paradigm shift from a repressive approach to a more humane and restorative approach in addressing drug abuse. Through Articles 54 and 103 of the Narcotics Law, and supported by the spirit of the new Criminal Code (Law No. 1 of 2023), the state provides opportunities for addicts to receive medical and social rehabilitation, rather than simply subjecting them to criminal punishment.

The ideal law enforcement model for addicts and victims of drug abuse must be based on the principle of justice, emphasizing not only formal legal aspects but also moral, social, and humanitarian dimensions. In this context, the repressive approach through criminal punishment, which has been dominant to date, particularly imprisonment, has proven ineffective in addressing the root causes of drug abuse. Conversely, a model that prioritizes rehabilitation as a central component of treatment represents a more progressive and just form of law enforcement, treating addicts and abusers not as criminals but as individuals in need of medical and social assistance.

Rehabilitation as a legal approach is not only a form of health intervention but also a reflection of the humanitarian values inherent in the law itself. Humane law enforcement requires the courage to abandon outdated patterns of punishment without treatment. This approach demands a proportional legal system, providing treatment commensurate with the severity of the offense, the perpetrator's condition, and the impact of their actions. Addicts who are not proven to be involved in illicit trafficking networks should not be placed in correctional facilities, but should be referred to rehabilitation institutions competent to assist their physical, mental, and social recovery.

Rehabilitation must be understood as part of a social recovery strategy. Drug addicts and abusers are part of society whose relationships with their social environment must be restored, not ostracized or stigmatized. Therefore, the success of rehabilitation is determined not only by the medical aspect but also by the individual's successful reintegration into their community. This is where cross-sector collaboration between the government, social institutions, civil society organizations, and families is crucial, to create an ecosystem that supports holistic recovery. This ideal model must also be supported by effective prevention policies, ranging from public education and public awareness of the dangers of narcotics to the development of early detection systems in educational settings, families, and the workplace. Strong prevention will reduce the number of new users and support the success of ongoing rehabilitation programs. A sound prevention approach also reduces the burden on the criminal justice system and correctional institutions, allowing state resources to be focused on addressing illicit drug trafficking networks, which pose a real threat to social order.

Thus, a just and humane law enforcement model will strike a balance between state efforts to combat drug crime and the rehabilitation of victims of drug abuse. The state will maintain an active role in prosecuting illicit traffickers, but it will not automatically turn users into victims of repressive policies. The legal system must be able to clearly distinguish between those who are dealers and those who are merely victims of abuse. This differentiated approach will uphold true justice, protect human dignity, and ultimately strengthen public trust in the law as an instrument of social justice.

The urgency of formulating a law enforcement model that is not only legal and formal, but also based on the principle of substantive justice in handling drug addicts and victims of abuse in the Indonesian criminal justice system. To date, the approach used in law enforcement practices has tended to be repressive and punitive, without considering the condition of addicts as individuals experiencing health problems and requiring recovery, not imprisonment. Therefore, a law enforcement model is needed that integrates the principles of restorative and corrective justice, by making medical and social rehabilitation the primary mechanism in the legal process, from the investigation and prosecution stages to the court decision. This model must also strengthen the role of the Integrated Assessment Team, clarify diversion procedures, and create space for the establishment of special institutions such as drug courts that are functionally capable of realizing a more humane, responsive, and equitable criminal justice system for drug addicts and victims of abuse.

CONCLUSIONS AND SUGGESTIONS

Conclusion

Based on the description above, the following conclusions can be drawn:

Reformulation of legal policy regarding Law Number 35 of 2009 concerning Narcotics is urgently needed to align legal norms with the practices of law enforcement officers. The discrepancy between the content of the regulations and their implementation, particularly in dealing with addicts and victims of abuse, creates disparities and legal injustice. Therefore, it is necessary to emphasize that addicts are subjects entitled to rehabilitation, not merely perpetrators of crimes. This reformulation aligns with the principles of restorative justice, the principle of legality, and the protection of human rights in the criminal justice system, which is oriented towards social recovery and public health.

A just law enforcement model for drug addicts and victims of drug abuse must shift from a repressive approach to a restorative and rehabilitative approach based on substantive justice. This requires a paradigm shift, emphasizing that

addicts are not merely criminals but individuals in need of recovery. This model combines restorative and corrective justice, with rehabilitation as the primary instrument for case resolution. Its implementation requires repositioning the authority of law enforcement agencies to systematically implement diversion based on objective medical assessments. The role of the Integrated Assessment Team (TAT) needs to be strengthened as the center of the legal process. Furthermore, the establishment of a Drug Treatment Court is a strategic step to prevent long-term criminalization. This model requires the support of progressive national policies and cross-sector collaboration. Thus, justice-based law enforcement must be a pillar of a humanistic and transformative criminal justice system as a form of human rights protection and social recovery.

Suggestions

The suggestions that researchers can convey in this writing are:

1) Legal Policy Reformulation in the Narcotics Law

a) Government and Lawmakers

Immediately reformulate the Narcotics Law through revisions or derivative regulations to harmonize the interpretation and practice of its articles, particularly regarding the position of addicts and victims as subjects entitled to rehabilitation, not criminal penalties.

b) Judicial Institutions and Law Enforcement Officials

Courts, prosecutors, and police must prioritize a rehabilitative approach based on medical and social assessments to prevent unfair, repressive approaches.

c) National Narcotics Agency (BNN), Ministry of Health, and Rehabilitation Institutions

Strengthen cross-sector coordination to support the effective implementation of rehabilitation and ensure the protection of the rights of addicts and victims in accordance with the principles of restorative justice and public health.

2) Law Enforcement Model Based on the Principle of Justice

a) Government and Policymakers

Immediately encourage reformulation of narcotics policy with a restorative and rehabilitative approach, and consider the establishment of a Drug Treatment Court. Synergy between legal, health, and civil society institutions needs to be strengthened to create a more humane system.

b) Courts, Prosecutors, and Police

Shift the treatment of addicts and victims to rehabilitation through medical assessment-based diversion. The sentencing paradigm must be directed toward recovery, not criminalization.

c) Integrated Assessment Team and Related Institutions

Strengthen the role of the Integrated Assessment Team (TAT) both normatively and functionally, with assessment results binding in the legal process. The National Narcotics Agency (BNN), the Ministry of Health, and rehabilitation institutions must support an integrated, human rights-based recovery system.

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