

The Paradox of Drug Law Enforcement in Indonesia: Between Repressive Approaches and Restorative Justice

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ABSTRACT: Law enforcement against narcotics crimes in Indonesia is still dominated by a repressive approach oriented toward punishment, particularly for drug users. This approach has given rise to various serious problems, including overcrowding in correctional institutions, high recidivism rates, and the suboptimal rehabilitation of perpetrators as individuals who are also victims of addiction. On the other hand, developments in modern criminal law encourage the implementation of restorative justice, which places drug users within a humanitarian and public health perspective. This article analyzes the paradox of narcotics law enforcement in Indonesia, which lies between repressive and restorative justice approaches, and examines the factors contributing to the suboptimal implementation of restorative justice in criminal justice practice. The research method used is normative legal research with legislative, conceptual, and case-based approaches. The results show a lack of synchronization between normative policies that open up space for rehabilitation and restorative justice, and law enforcement practices that remain formalistic and repressive. This paradox results in the failure to achieve the goal of just and beneficial punishment. Therefore, this article recommends the need for reconstruction of drug law enforcement through a reorientation of criminal policy that consistently integrates health, rehabilitation, and restorative justice approaches into the Indonesian criminal justice system.

KEYWORDS: Law Enforcement, Drug Crimes, Repressive Approach, Restorative Justice, Criminal Policy.

1. INTRODUCTION

Drug abuse and illicit trafficking are among the most complex legal and social issues facing Indonesia today [1]. Drug crimes not only threaten individual health but also have systemic impacts on social resilience, security, stability, and the future of the nation's future generations [2]. Therefore, the state considers drug crimes a serious crime requiring firm and integrated legal action. In response to this threat, Indonesia enacted Law Number 35 of 2009 concerning Narcotics, which normatively regulates strategies for preventing, eradicating, and addressing drug abuse [3]. This law essentially adheres to a double-track system, combining criminal sanctions with medical and social rehabilitation measures, particularly for drug addicts and abusers [4]. Conceptually, this regulation demonstrates that Indonesian narcotics law is not solely oriented toward punishment but also recognises the humanitarian and public health dimensions.

However, in law enforcement practice, a repressive approach remains the dominant paradigm. Drug users are often processed through conventional criminal justice mechanisms and sentenced to prison, without adequately considering the dependency aspect as a health issue. This situation significantly contributes to the increasing number of drug convicts and exacerbates the problem of overcrowding in correctional institutions in Indonesia [5]. This fact demonstrates a gap between the law's normative objectives and its implementation on the ground.

The dominance of a repressive approach also raises serious questions about the effectiveness of drug law enforcement. Various studies show that criminalising drug users does not always have a significant impact on reducing drug abuse or trafficking. Instead, imprisonment often reinforces the cycle of crime, increases the risk of recidivism, and hinders the recovery process for drug users [6]. This indicates that a legal approach that overemphasises retributive justice is not fully capable of addressing the complexity of the drug problem.

Along with the development of modern criminal law, the restorative justice paradigm has emerged, emphasising recovery, responsibility, and a more humane approach to problem-solving. Restorative justice views specific perpetrators, including drug users, not merely as objects of punishment, but also as subjects requiring recovery and social reintegration. In the context of narcotics, this approach aligns with the public health perspective, which positions drug addiction as a disease requiring treatment, not simply criminal punishment [7].

However, the implementation of restorative justice in drug cases in Indonesia still faces various obstacles. Disharmony in regulations, differing interpretations among law enforcement officials, and a strong formalistic legal culture mean that restorative

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justice has not been consistently implemented [8]. As a result, a paradox arises in law enforcement: normative policies recognise rehabilitation and restorative justice, yet law enforcement practices remain repressive [9]. This paradox not only undermines the objectives of punishment but also threatens the protection of human rights, particularly the rights to health and humane treatment.

From the perspective of a Pancasila-based state based on the rule of law, law enforcement should not stop at legal certainty alone. However, it must also achieve substantive justice and social benefit [10]. Therefore, an in-depth and critical study of drug law enforcement in Indonesia is needed, particularly in examining the tension between repressive and restorative justice approaches [11]. This study is crucial for formulating a more proportional, humane, and equitable narcotics law enforcement policy direction.

Drug law enforcement in Indonesia demonstrates a tension between the goals of crime eradication and human rights protection. Although Law Number 35 of 2009 concerning Narcotics normatively opens up rehabilitation opportunities for drug addicts and abusers, in practice, a repressive approach through criminal punishment remains mainstream [12]. This situation raises fundamental questions about the effectiveness of criminal law in achieving justice, benefits, and legal certainty in a balanced manner.

The paradox of drug law enforcement demonstrates a lack of synchronicity between progressive criminal law policies and law enforcement practices that remain legalistic and formalistic [13]. Law enforcement officials tend to view drug users solely as criminals, without considering the aspect of dependency as a health and social issue. This contradicts the development of the modern criminal law paradigm, which emphasises restorative and rehabilitative approaches, particularly for victimless crimes such as drug abuse [14].

Furthermore, the dominance of a repressive approach in drug law enforcement has resulted in an increased burden on the criminal justice system, particularly correctional institutions, and suboptimal rehabilitation for drug users. This situation demonstrates that criminalisation is not always an effective instrument in addressing drug abuse. Therefore, a critical study is needed to understand the root of the problem and formulate a more just and recovery-oriented model for drug law enforcement.

2. RESEARCH METHODOLOGY

This study employs doctrinal legal Research, focusing on the study of positive legal norms governing the enforcement of narcotics crimes in Indonesia. This study aimed to analyse statutory provisions, legal principles, doctrines, and court decisions regarding the application of repressive and restorative justice approaches in narcotics cases. The approaches employed in this study include a statutory, a conceptual, and a case approach. The statutory approach was used to examine and review various relevant regulations, particularly Law Number 35 of 2009 concerning Narcotics, related provisions in the Criminal Code (KUHP) and the Criminal Procedure Code (KUHAP), and the internal policies of law enforcement agencies governing rehabilitation and restorative justice. A conceptual approach was used to analyse law enforcement, punishment, restorative justice, and criminal law policy, drawing on the perspectives of legal experts and developments in modern criminal law. Meanwhile, a case study approach was used to examine court decisions in narcotics cases to determine the prevalence of repressive and rehabilitative approaches in judicial practice.

The legal sources in this study included primary, secondary, and tertiary legal materials. Primary legal materials included relevant laws and court decisions related to narcotics crimes. Secondary legal materials included criminal law textbooks, national and international scientific journals, Research findings, and institutional reports discussing narcotics law enforcement and restorative justice. Tertiary legal materials, such as legal dictionaries and legal encyclopedias, served as supporting materials.

The legal materials were collected through library Research, examining laws and regulations, legal literature, and journal articles relevant to the Research focus. All legal materials obtained were then analysed qualitatively using descriptive-analytical and prescriptive analysis methods. Descriptive analysis is used to describe the current state of narcotics law enforcement. In contrast, prescriptive analysis is used to formulate recommendations and a model for reconstructing more just narcotics law enforcement by integrating repressive and restorative justice approaches. Through this Research method, it is hoped that this study will provide a comprehensive understanding of the paradox of narcotics crime law enforcement in Indonesia and offer relevant and applicable normative solutions for reforming narcotics criminal law policy.

3. RESULTS AND DISCUSSION

3.1 Characteristics of Law Enforcement of Narcotics Crimes in Indonesia, Which is Dominated by a Repressive Approach

The main characteristic of drug law enforcement in Indonesia to date still demonstrates a dominant repressive approach that places punishment, particularly imprisonment, as the primary instrument for combating drug crime [15]. This orientation is reflected in the practice of law enforcement officials who tend to process almost all drug cases through conventional criminal justice mechanisms, from the investigation stage to sentencing in court, without adequately differentiating between users, people with an addiction, and illicit traffickers [16]. Conceptually, these three categories of perpetrators differ in their characteristics, levels of culpability, and treatment needs within the framework of modern criminal law.

Normatively, Law Number 35 of 2009 concerning Narcotics actually recognises the distinction between the qualifications of drug offenders by regulating medical and social rehabilitation for drug users and people with an addiction [17]. However, in law enforcement practice, this distinction is often formal and not substantive. Law enforcement officials often base case construction on

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the textual fulfilment of the elements of the crime, without delving deeply into the defendant's condition of dependency, social background, or rehabilitation needs. As a result, drug users, who are normatively positioned as subjects of rehabilitation, are still treated as criminals deserving of imprisonment.

The dominance of this repressive approach is inextricably linked to the strong "war on drugs" paradigm that informs drug law enforcement policy in Indonesia. This paradigm views narcotics as a serious threat to national security and social order, thus placing enforcement and punishment as the primary measure of law enforcement success [18]. Within this framework, law enforcement success is often measured by quantitative indicators, such as the number of arrests, detentions, and convictions, rather than by the effectiveness of offender rehabilitation or the reduction in drug dependency in the community. Consequently, public health and restorative justice approaches are often marginalised in law enforcement practices.

This repressive paradigm has profound implications for the position of drug users in the criminal justice system. Drug users who are actually in a state of dependence, which health science understands as a medical and psychosocial disorder, are positioned as purely criminals, rather than as individuals in need of health intervention and rehabilitation [1]. This approach has the potential to ignore humanitarian principles and the goal of punishment, which is oriented towards rehabilitative improvement (rehabilitative ideals), and risks creating substantive injustice in law enforcement [4].

Empirically, the repressive nature of drug law enforcement has a direct impact on the high number of drug inmates in correctional institutions. Various reports indicate that drug cases constitute the most significant proportion of the correctional inmates in Indonesia, with a significant percentage coming from the category of drug users or abusers. This situation indicates that the repressive approach not only fails to reduce drug abuse sustainably but also creates structural problems in the form of overcapacity in correctional institutions. This overcapacity ultimately burdens the criminal justice system as a whole and hinders the implementation of the developmental function and the social reintegration of inmates.

Thus, the dominance of the repressive approach in drug law enforcement in Indonesia demonstrates a tension between the goals of law enforcement and the social realities faced by drug users. An approach that places too much emphasis on punishment tends to ignore the root causes of drug abuse and instead creates new problems in the criminal justice system. Therefore, an analysis of this repressive nature provides an important basis for formulating a more proportional, just, and consistent reconstruction of drug law enforcement that aligns with the principle of protecting human dignity.

3.2 Factors Causing the Suboptimal Implementation of Restorative Justice in Narcotics Cases

Although Law Number 35 of 2009 concerning Narcotics normatively accommodates a rehabilitative approach and opens up space for the application of restorative justice, the implementation of this policy in law enforcement practice has not been optimal, particularly in handling cases involving drug users [6]. The law explicitly recognises that drug users and people with an addiction essentially require medical and social rehabilitation, not merely criminal punishment. However, this normative recognition has not been accompanied by a clear, structured, and binding operational mechanism for law enforcement officers at every stage of the criminal justice process. As a result, rehabilitation and restorative justice do not function as primary policies but rather as options whose implementation depends heavily on officers' discretion.

Regulatory disharmony is a crucial factor hindering the optimisation of restorative justice in drug cases. Regulations regarding rehabilitation are scattered across various laws and sectoral policies, but lack a unified, consistent implementation framework. This situation creates uncertainty in law enforcement practices, as law enforcement officials often prefer the criminal justice route, which is considered procedurally clearer and carries minimal administrative risk [7]. As a result, although rehabilitation is normatively possible, criminal punishment remains the dominant legal response in practice.

In addition to regulatory factors, the legal culture of law enforcement officials also plays a significant role in hindering the implementation of restorative justice. Drug law enforcement remains heavily influenced by legalistic and retributive perspectives, which view criminal law as a means of punishing criminals. Within this paradigm, punishment, particularly imprisonment, is perceived as the most decisive and legitimate form of law enforcement, reflecting the authority of the state. Conversely, the restorative justice approach is often viewed as a form of legal leniency that may weaken the deterrent effect and the authority of law enforcement.

This retributive paradigm encourages law enforcement officials to prioritise procedural certainty over substantive justice. In many cases, authorities choose the criminal justice route because it is considered safer from a legal and administrative perspective, even though this approach does not always align with the goals of criminal punishment, which are oriented towards improving offenders and protecting human dignity [13]. As a result, restorative justice has not developed as a law enforcement paradigm, but remains on the fringes of the criminal justice system.

Another equally significant obstacle is the strong social stigma against drug users. In public perception, drug users are still labelled as dangerous criminals who threaten social order. This stigma not only influences public opinion but also shapes the attitudes and policies of law enforcement officials in handling drug cases [14]. The rehabilitative approach is often considered inappropriate because it is considered not to reflect the public's sense of justice, which demands strict punishment for drug offenders.

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In fact, various scientific studies in the fields of health and criminology show that drug dependence is a complex problem related to biological, psychological, and social aspects, requiring long-term medical intervention and rehabilitation. A purely criminal approach has the potential to worsen the condition of drug users and increase the risk of reoffending after serving a prison sentence. Thus, the social stigma against drug users indirectly reinforces the dominance of repressive approaches and weakens the legitimacy of restorative justice in law enforcement practices.

Based on this description, it can be concluded that the failure to implement restorative justice in handling drug cases is not solely caused by weaknesses in legal norms, but is also influenced by interrelated structural and cultural factors. Regulatory disharmony, a retributive legal culture within the authorities, and the social stigma against drug users create a law enforcement ecosystem that is not conducive to the development of restorative approaches. This situation emphasises the need for a reconstruction of drug law enforcement that focuses not only on regulatory reform but also on a comprehensive paradigm shift and a shift in legal culture.

3.3 Narcotics Law Enforcement Reconstruction Model: Proportional Integration of Repressive and Restorative Justice Approaches

To address the paradox of drug law enforcement in Indonesia, a reconstruction of law enforcement policies and practices is needed that integrates repressive and restorative justice approaches proportionally and systemically. This reconstruction is based on the understanding that the drug problem is complex and cannot be resolved through a single, uniform legal approach [17]. Effective law enforcement requires differentiated treatment of perpetrators based on their role, level of culpability, and social impact.

A repressive approach remains relevant and necessary, particularly for drug dealers and traffickers who operate within organised crime networks and profit economically from the illicit trafficking of narcotics. In this context, criminal punishment serves as an instrument of social defence and upholds the authority of state law [19]. Punishment of perpetrators of illicit trafficking aims to break the chain of drug distribution, create a deterrent effect, and prevent the spread of social impacts caused by drug crimes. Therefore, the application of strict criminal sanctions to perpetrators of illicit trafficking is an integral part of a criminal law policy oriented toward the public interest [20].

Conversely, for drug users, law enforcement needs to be fundamentally reoriented toward a restorative and rehabilitative approach, positioning users as subjects of recovery, not merely objects of punishment. Drug users are generally in a state of dependency, which is scientifically understood as a health disorder requiring medical and social intervention. From this perspective, imprisonment is not only ineffective but also has the potential to worsen the user's condition and increase the risk of reoffending [21]. Therefore, medical and social rehabilitation must be positioned as a primary policy in handling drug user cases.

This reconstruction of drug law enforcement requires a clear, operational distinction between perpetrators. This differentiation must not stop at the normative level but be translated into concrete, binding law enforcement mechanisms. Strengthening integrated assessment mechanisms that are objective, transparent, and accountable is a crucial prerequisite for ensuring that drug users can be accurately identified and directed to rehabilitation programs [22]. This assessment must involve law enforcement officials, medical personnel, and social workers so that the decisions made truly reflect the perpetrator's condition.

Furthermore, the reconstruction of narcotics law enforcement requires a normative obligation for law enforcement officials to prioritise the rehabilitation of drug users who meet specific criteria. This obligation is necessary to limit excessive discretion and prevent officials from choosing the criminal path solely for the sake of procedural certainty [23]. Thus, rehabilitation is no longer positioned as an alternative policy, but rather as an integral part of the narcotics criminal justice system.

Furthermore, the integration of repressive and restorative justice approaches must be supported by a shift in the law enforcement paradigm from a solely retributive orientation to substantive justice that emphasises humanity and social benefit. This paradigm requires law enforcement officials to not only enforce the law textually but also to consider the law's broader objectives, including the protection of human rights and the social rehabilitation of perpetrators [24]. In this context, restorative justice is not understood as a weakening of the law, but rather as an effort to expand the function of criminal law to better adapt to the complexity of social issues.

From the perspective of a Pancasila-based state based on the rule of law, narcotics law enforcement should not stop at achieving formal legal certainty. However, it should also be directed toward realising social justice and protecting human dignity. The values of just and civilised humanity and social justice for all Indonesians demand law enforcement that balances firmness against crime with concern for human recovery. Therefore, a reconstruction of narcotics law enforcement that integrates repressive and restorative justice approaches proportionately will strengthen the effectiveness, legitimacy, and public trust in national criminal law.

4. CONCLUSION

This Research shows that law enforcement regarding narcotics crimes in Indonesia is still dominated by a repressive approach that places punishment, particularly imprisonment, as the primary instrument. This orientation is reflected in law enforcement practices that have not fully implemented proportional distinctions between users, people with an addiction, and illicit traffickers of narcotics, even though this distinction has been normatively recognised in Law Number 35 of 2009 concerning Narcotics. As a

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result, drug users who should receive a rehabilitative approach are still often processed through conventional criminal mechanisms. Furthermore, this Research found that restorative justice has not been optimally implemented in handling narcotics cases, especially for users. This condition is influenced by several factors, including inconsistencies between legal norms and law enforcement practices, limited rehabilitation infrastructure, and a law enforcement paradigm that remains retributively oriented. In addition, social perceptions that view drug users solely as criminals also strengthen resistance to the implementation of a restorative approach. The dominance of a repressive approach in narcotics law enforcement has failed to achieve comprehensive sentencing objectives, particularly in terms of offender rehabilitation and recurrence prevention. In this context, law enforcement has the potential to create new problems, such as overcrowding in correctional institutions and the marginalisation of drug users. Therefore, a reconstruction of narcotics law enforcement is needed that integrates repressive and restorative justice approaches proportionally, so that law enforcement functions not only as an instrument of punishment but also as a means of human protection and rehabilitation, in accordance with the values of substantive justice.

Based on these conclusions, this study recommends several strategic steps, as follows: a) Sharpening the policy of differentiating drug offenders; b) Institutionalising restorative justice in handling narcotics cases; c) Reorienting the paradigm of law enforcement officers; d) Strengthening synergy between relevant institutions. Through the implementation of these recommendations, it is hoped that narcotics law enforcement in Indonesia can move toward a more balanced, just system oriented toward protecting human dignity, without neglecting the importance of firmly and sustainably eradicating illicit drug trafficking.

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