

# Implementation Of Restorative Justice Approach In The Settlement Of Narcotics Crime Cases (Research Study At Bintan Police Station)

*by Suardi Suardi*

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## Implementation Of Restorative Justice Approach In The Settlement Of Narcotics Crime Cases (Research Study At Bintan Police Station)

Suardi Suardi<sup>1</sup>, Ramlan Ramlan<sup>2</sup>, Erniyanti Erniyanti<sup>3</sup>, M. Soerya Respationo<sup>4</sup>,  
Nicha Suwalla<sup>5</sup>

<sup>1-5</sup> Faculty of Law, University of Batam, Batam City, Indonesia

**Abstract.** *The phenomenon of narcotics abuse is a serious problem that requires special handling, especially in Indonesia. Traditional approaches that emphasize criminal punishment have not proven to be fully effective in resolving this problem. This study examines the implementation of the restorative justice approach in resolving narcotics crime cases at the Bintan Police. The restorative justice approach emphasizes victim rehabilitation, perpetrator rehabilitation, and reconciliation between perpetrators and victims as an alternative to prison sentences. The purpose of this study is to analyze the legal arrangements that support the restorative justice approach in narcotics cases, evaluate the implementation of this approach in the Bintan Police, as well as identify the obstacles faced and formulate relevant solutions. The research method used is a qualitative method with a case study approach, involving in-depth interviews with police officers, medical personnel, and other related parties, as well as analysis of applicable legal documents and policies. The results of the study show that although there are efforts to implement a restorative justice approach in the Bintan Police, the implementation is not optimal. The main obstacles faced include a lack of adequate rehabilitation facilities, limited understanding among law enforcement officials, and social stigma against narcotics addicts. The study found that better coordination between institutions, intensive training and socialization, and improved rehabilitation facilities are needed to overcome these barriers. Based on these findings, the suggestions given include increasing the capacity and quality of rehabilitation facilities by the government, further training for police officers on restorative justice approaches, and educational campaigns for the community to reduce stigma against narcotics addicts. With these steps, it is hoped that the restorative justice approach can be applied more effectively, providing a more humane and recovery-oriented solution in handling narcotics cases at the Bintan Police.*

**Keywords:** *Effectiveness, Restorative Justice, Narcotics Crimes.*

### 1. INTRODUCTION

Narcotics crime cases are a serious problem that is a big challenge for many countries, including Indonesia. The phenomenon of narcotics abuse has spread to various levels of society and has had very detrimental impacts on individuals, families, and society as a whole. Efforts to handle narcotics cases have been carried out by the authorities using a predominantly criminal punishment approach. Even though many narcotics cases have been successfully prosecuted and the perpetrators have been sentenced to prison, this has not yet provided an optimal solution in dealing with the root of the problem and recovering victims. When talking about narcotics cases, the common opinion is that the criminal justice system is used as an instrument to handle narcotics cases. It is necessary to distinguish between the criminal justice system and criminal procedural law. Andi Hamzah states that criminal procedural law and the criminal justice system are very different. Criminal procedural law is only about the law, while the criminal justice system is broader and covers things that are not law.

Restorative justice emerged because if we look at what happened, the criminal system is deemed not to have a deterrent effect on perpetrators of criminal acts. Of course, this results in prisons becoming increasingly overcrowded and giving rise to many criminal acts within the prison environment, as the author explained previously. Rufinus Hutauruk stated that the emphasis in implementing restorative justice is holding criminal responsibility directly from the perpetrator to the victim and the community. This shows that the main object is not the perpetrator but a sense of justice and redress of the issue. The investigative practice going on so far shows that the flow of legal positivism or understanding of legalism based on the principle of legal certainty is a school of legal philosophy that has become mainstream in implementing investigative authority by National Police investigators. The dominant method of interpretation is authentic or grammatical interpretation. This means that the main model of legal reasoning in the exercise of investigative authority by National Police investigators is the legal positivism reasoning model. The dominance of legal positivism, which interprets the law according to rules and logic under the principle of legal certainty in decision-making during the investigation process, is determined more by legal formalism aspects alone, not based on material substantive aspects of the law with teleological or sociological interpretations to provide justice.

In Attorney General's Regulation Number 18 of 2021 concerning Settlement of Criminal Cases of Narcotics Abuse Through Rehabilitation with a Restorative Justice Approach, this can take the form of terminating the prosecution of cases by the Prosecutor's Office against suspected drug addicts or abusers. However, in practice, the handling of narcotics abuse cases often only focuses on Article 127 section (1) of Law Number 35 of 2009 concerning Narcotics with the alleged prison sentence for perpetrators of narcotics abuse without considering the point of Article 54 of Law Number 35 of 2009 concerning Narcotics that the narcotics addicts are preferred receive medical and social rehabilitation. Apart from that, there is a shift in settlement policy from the old pattern to the new settlement pattern. They were making law enforcers still rigid, namely often using old patterns, such as following up with drug abusers and people with an addiction to the trial stage, because the new regulations mean that law enforcement officials have to make adjustments to the existing stages in completing this new pattern.

In criminal law enforcement, we often hear the term restorative justice. Restorative justice is a case resolution model that places justice for victims and perpetrators of criminal acts in the main position by changing punishment in the criminal justice system. Bagir Manan explained that the essence of restorative justice is to foster ties of participation

between perpetrators, victims, and related parties in resolving cases; incidents or criminal acts that must be resolved; perpetrators, victims, and stakeholder positions are placed in society, which is directed to work together to find a win-win solution or a resolution that is considered fair for all parties. The restorative justice approach offers an alternative to the traditional criminal justice system, focusing on healing victims, perpetrators, and affected communities. In the context of narcotics crimes, the application of restorative justice can potentially provide a more rehabilitation-oriented approach, social reintegration, and individual recovery rather than mere imprisonment.

The application of restorative justice in resolving narcotics crime cases is not fully understood and is limited to theoretical studies. More in-depth empirical research is still needed to evaluate the effectiveness of this approach in handling narcotics cases. Therefore, this research will analyze the implementation of the restorative justice approach in resolving narcotics crime cases, using a case study approach and evaluating its effectiveness. This research will evaluate the effectiveness of implementing a restorative justice approach in resolving narcotics crime cases through case studies. This evaluation aims to assess the extent to which the restorative justice approach has succeeded in achieving the goals of rehabilitation, social reintegration, and restorative justice in handling narcotics cases.

It is hoped that this research can provide a deeper understanding of the potential and challenges of implementing a restorative justice approach in the context of narcotics crimes. The results of this research can be a basis for developing further policies, strategies, or guidelines to increase the criminal justice system's effectiveness in handling future narcotics cases. Based on the problems above, the author is interested in making it a scientific work in the form of a thesis titled "Implementation Of Restorative Justice Approach In The Settlement Of Narcotics Crime Cases (Research Study At Bintan Police Station)".

Based on the background description above, the author raises several problems which will be discussed further. These problems are as follows:

1. How can the legal regulation of a restorative justice approach be used to resolve narcotics crime cases in Indonesia?
2. How can a restorative justice approach be implemented to resolve narcotics crime cases at the Bintan Police?
3. What are the obstacles and solutions to implementing a restorative justice approach in

resolving narcotics crime cases at the Bintan Police?

Based on the problem formulation stated above, it can be seen that the objectives of this research are:

1. To find out and analyze the legal arrangements for a restorative justice approach to resolve narcotics crime cases in Indonesia.
2. To find out and analyze the implementation of the restorative justice approach in resolving narcotics crime cases at the Bintan Police.
3. To find out and analyze the obstacles and solutions to implementing the restorative justice approach in resolving narcotics crime cases at the Bintan Police.

## 2. LITERATURE REVIEW

In legislation that uses the term "criminal act" both in the article and in the explanation, the word "act" is almost always used because the word "act" is not well known. Criminal acts indicate the meaning of a person's behavioural and physical movements. It is also true that someone does not act, but by not doing it, he commits a criminal act. Regarding the obligation to act but not do so, which is stipulated in Article 164 of the Criminal Code (KUHP), the provisions in this article require a person to report to the authorities if a crime is about to occur if it turns out that if he does not report it, he can be subject to sanctions. According to the Criminal Procedure Code (KUHAP), case resolution follows an integrated criminal justice system. In this system, the process of resolving criminal cases goes through several specific stages, each stage of which is handled by a different official or officer, but each party supports the process of resolving criminal cases.

Narcotics are substances or drugs derived from plants or non-plants, whether synthetic, which can cause a decrease and change in consciousness, loss of taste, reduce or disappear the feeling of pain, and cause dependence. Therefore, if this group of substances is consumed by humans, either by inhaling, sucking, swallowing, or injecting, it will affect the central nervous system (brain) and will cause dependence. As a result, the brain's working system and the vital functions of other body organs, such as the heart, respiration, blood circulation, et cetera, will increase when consumed and decrease when not consumed (becoming irregular). On the one hand, according to the law, narcotics addicts are perpetrators of criminal acts of narcotics abuse; this is due to the provisions of the narcotics law, which regulates prison sentences given to perpetrators of narcotics abuse. Then, on the other hand, it can be said that according to the narcotics law, narcotics addicts are victims, which is shown by the provision that narcotics addicts can be sentenced to rehabilitation.

This means that, on the one hand, the law still considers narcotics addicts as perpetrators of criminal acts and, on the other hand, as victims of their narcotics abuse.

According to Law Number 35 of 2009 Article 1 section (1) concerning Narcotics, the definition of narcotics is: Narcotics are substances or drugs derived from plants or non-plants, whether synthetic or semi-synthetic, which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can cause dependence, which is differentiated into groups as attached in the law. On the one hand, according to the law, narcotics addicts are perpetrators of criminal acts of narcotics abuse; this is due to the provisions of the narcotics law, which regulates prison sentences given to perpetrators of narcotics abuse. Then, on the other hand, it can be said that according to the narcotics law, narcotics addicts are victims, which is shown by the provision that narcotics addicts can be sentenced to rehabilitation. This means that, on the one hand, the law still considers narcotics addicts as perpetrators of criminal acts and, on the other hand, as victims of their narcotics abuse.

### 3. RESEARCH METHODS

Research is a managed, systematic, data-based, critical, objective, and scientific inquiry or investigation into a specific problem aimed at finding alternative solutions to related problems. Methods are processes, principles, and procedures for solving a problem. The specifications of this research only carry out analysis up to the level of descriptive, namely analyzing and presenting facts systematically so that they are easier to understand and conclude. The approach method in this research combines the normative approach, "legal research" with the empirical approach method "Judicial Sociologies". The research mechanism using this combined approach method is carried out by decomposing research explanations from inductive to deductive methods and vice versa. The author carried this out to help explain the relationship between research variables and research objects to produce an understanding that is very helpful to readers, especially researchers and academics.

The location of this research was Bintan Regency, precisely at the Bintan Police Station, which is located at Bintan Buyu, Kec. Tlk. Bintan, Bintan Regency, Riau Islands 29133. The population is all law enforcement officers and the public in the jurisdiction of the Bintan Regency Police Department (Polres). In this research random sampling technique

is used to find out what is related to the research to be studied. The sample used by the author is a random technique, namely with a breakdown of 5 (five) police officers who are members of the Riau Islands Regional Police.

#### 4. RESULTS AND DISCUSSION

##### A. Legal Arrangements Restorative Justice Approach Can Be Used in Resolving Cases Narcotics Crime in Indonesia

The implementation of a restorative justice approach in resolving narcotics crime cases in Indonesia shows that there is a significant effort to change the approach from a retributive one to a more rehabilitative one. Nevertheless, several challenges are still faced, such as a lack of understanding by law enforcement officials and the public regarding this concept, as well as resistance to changing the paradigm from prison to rehabilitation. Various laws and regulations regulate the restorative justice approach in handling narcotics crimes in Indonesia. The following are several articles and regulations that form the legal basis:

- a. Law Number 35 of 2009 concerning Narcotics
- b. Attorney General Regulation Number 18 of 2021 concerning the resolution of handling criminal cases of narcotics abuse through rehabilitation with a restorative justice approach
- c. Republic of Indonesia State Police Regulation Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice
- d. Circular Letter of the Supreme Court of the Republic of Indonesia Number 4 of 2010 concerning the placement of abusers, victims of abuse, and narcotics addicts into medical and social rehabilitation institutions.
- e. Joint Regulation Number 1/PB/MA/111/2014 concerning the treatment of narcotics addicts and victims of narcotics abuse in rehabilitation institutions.
- f. Decree of the Director General of the General Justice Agency of the Supreme Court of the Republic of Indonesia Number 1691/DJU/SK/PS.00/12/2020 concerning implementing guidelines for restorative justice in the general justice environment.

Thus, it is hoped that this approach can help reduce relapse rates and encourage social reintegration for narcotics addicts. This decision also emphasizes the importance of coordination between law enforcement agencies, rehabilitation institutions, and communities to support the effective and sustainable implementation of restorative justice. Legal regulations and implementing a restorative justice approach in handling

narcotics cases in Indonesia are progressive steps that must be supported and improved through outreach, training, and ongoing evaluation.

**B. Implementing the Restorative Justice Approach can be used to resolve criminal cases of Narcotics Crime at Bintan Police.**

In the background of research conducted at the Bintan Police, it was stated that several narcotics crimes were resolved through a restorative justice approach. In 2023, the Bintan Police will have resolved 13 narcotics crime cases using this approach. Examples of cases faced include abusers who are serious addicts, victims of narcotics abuse who fall prey to persuasion or pressure from other parties, as well as perpetrators who are not part of a narcotics distribution network. One of the cases resolved using a restorative justice approach at the Bintan Police involved a heavy narcotics addict. The suspect is a teenager who has been arrested several times for using methamphetamine. Based on the results of the integrated assessment, the suspect was identified as a serious addict who needed medical and social rehabilitation to overcome his addiction. Instead of being sentenced to prison, the suspect is placed in a rehabilitation centre to undergo a comprehensive recovery program. Taking this step allows the suspect to recover and prevent relapse.

These cases are based on the provisions in Law Number 35 of 2009 concerning Narcotics, especially Article 54 and Article 127 paragraph (2), which emphasize the importance of rehabilitation for people with an addiction and victims of narcotics abuse. The implementation also refers to Attorney General Regulation Number 18 of 2021 and Circular Letter of the Supreme Court of the Republic of Indonesia Number 4 of 2010, which provides guidelines for law enforcement officers to prioritize medical and social rehabilitation. An integrated assessment by a team involving BNN, police, and medical personnel was carried out to ensure that the suspect deserved rehabilitation. In its implementation, the Bintan Police use the results of an integrated assessment to determine whether the suspect deserves rehabilitation. This assessment involves a comprehensive evaluation that includes the suspect's physical and mental health condition, level of narcotic dependence, and potential for rehabilitation. If the suspect is proven to be a user or victim of narcotics abuse and is not involved in a distribution network, the police can recommend rehabilitation as a solution. This approach is in line with the principles of



restorative justice, which aims to restore the condition of the perpetrator and reduce the negative impacts of narcotics use in the long term.

Apart from carrying out assessments, the police also facilitate mediation between the perpetrator and the victim's family in cases involving narcotics abuse. This mediation aims to reach an agreement that satisfies all parties and ensures that the perpetrator gets the support needed for rehabilitation. The police are also responsible for ensuring that suspects recommended for rehabilitation have access to appropriate rehabilitation facilities. They work closely with rehabilitation institutions to monitor the suspect's progress throughout the rehabilitation program, ensure compliance with the recovery plan, and reduce the risk of relapse. The implementation of a restorative justice approach in handling narcotics crime cases at the Bintan Police shows that there is a serious effort to shift the focus from prison sentences to rehabilitation and recovery. However, this implementation is not optimal. One of the main challenges is the limited number of adequate rehabilitation facilities to accommodate and care for all drug addicts who qualify for rehabilitation. Apart from that, there is still a lack of understanding and acceptance of restorative justice among law enforcement officers, who are sometimes more accustomed to a retributive approach.

### C. Obstacles and Solutions to Implementing the Restorative Justice Approach Can Be Deep Settlement of Narcotics Crime Cases at Bintan Police

Barriers to implementing the restorative justice approach in resolving narcotics crime cases at the Bintan Police, namely:

#### a. Lack of adequate rehabilitation facilities

One of the main obstacles to implementing the restorative justice approach at the Bintan Police is the Lack of adequate rehabilitation facilities. Many narcotics addicts who should be undergoing rehabilitation are still sentenced to prison because of the limited capacity of existing rehabilitation centres. In addition, available rehabilitation facilities are often not equipped with sufficient resources and medical personnel to handle all cases requiring treatment. This results in many narcotics addicts not getting the rehabilitation they need, so the goals of the restorative justice approach are not fully achieved.

#### b. Limited understanding and acceptance

Understanding and accepting the concept of restorative justice among law enforcement officers at the Bintan Police is also a significant obstacle. Many officials still adhere to the retributive paradigm, which places more emphasis on punishment as

a way to provide a deterrent effect. The Lack of training and outreach regarding the benefits and principles of restorative justice makes many officers hesitant to implement this approach. In addition, the general public also often has the view that prison sentences are the only effective way to deal with narcotics crimes, which hinders rehabilitation efforts.

c. Social stigma against narcotics addicts

The social stigma attached to narcotics addicts is also a barrier to implementing a restorative justice approach. Society views people with addiction as criminals who should be severely punished rather than as individuals in need of help and rehabilitation. This stigma not only influences society's views but also the attitude of law enforcement officials towards narcotics addicts. As a result, many people with an addiction feel reluctant to seek help or accept rehabilitation for fear of discrimination and rejection from their environment.

d. Inconsistent policies and regulations.

Inconsistent policies and regulations, along with inconsistencies in the enforcement of regulations, also pose significant obstacles. Although there are regulations such as Law Number 35 of 2009 concerning Narcotics and Attorney General Regulation Number 18 of 2021 which support rehabilitation, their implementation in the field is often inconsistent. This inconsistency is due to varying interpretations by law enforcement officers and a lack of coordination among relevant agencies such as the police, prosecution, and rehabilitation institutions. This lack of uniformity results in ineffective and unfair handling of narcotics cases.

Efforts to overcome obstacles to implementing the restorative justice approach in resolving narcotics crime cases at the Bintan Police, namely:

- a. Improved rehabilitation facilities
- b. Training and outreach for law enforcement officers
- c. Improve coordination between institutions
- d. Improvement of policies and regulations

## 5. CONCLUSIONS AND RECOMMENDATIONS

### A. Conclusion

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Based on the description of the discussion in the previous chapter, the following conclusions can be drawn:

- a. Legal regulations regarding the restorative justice approach in resolving narcotics crime cases in Indonesia show a commitment to shift the focus from retributive punishment to rehabilitation and recovery, namely Law Number 35 of 2009 concerning Narcotics, which emphasizes the importance of rehabilitation for people with an addiction, Attorney General Regulation Number 18 of 2009 2021 which allows for the termination of prosecutions for rehabilitation, as well as Circular Letter of the Supreme Court of the Republic of Indonesia Number 4 of 2010 and Joint Regulation Number 1/PB/MA/111/2014 which provides detailed guidance for the implementation of medical and social rehabilitation.
- 12  
b. The implementation of a restorative justice approach in resolving narcotics crime cases at the Bintan Police shows efforts to prioritize rehabilitation and recovery for narcotics addicts rather than prison sentences. Although several cases have been successfully resolved through rehabilitation, their implementation has not been optimal due to obstacles such as Lack of adequate rehabilitation facilities, limited understanding among law enforcement officials, and social stigma toward narcotics addicts. The police at Bintan Police play an important role in the initial assessment process, mediation, and coordination with rehabilitation institutions, but capacity building, training, and outreach are needed to overcome these obstacles.
- c. Barriers to implementing the restorative justice approach in resolving narcotics crime cases at the Bintan Police are limited rehabilitation facilities, limited understanding among law enforcement officers, and social stigma towards narcotics addicts. To overcome these obstacles, it is necessary to increase the capacity and quality of rehabilitation facilities, provide intensive training and outreach for law enforcement officers, and make efforts to change public perceptions about the importance of rehabilitation. In addition, better coordination between relevant institutions and refinement of policies and regulations are also important to ensure consistent and effective implementation.

## **B. Recommendations**

Based on the conclusions above, several suggestions are given as follows:

- a. It is recommended that the Bintan Police provide further training and education for law enforcement officers regarding the principles and benefits of a restorative justice approach. This training should include assessment techniques, mediation, and knowledge of drug rehabilitation to ensure that officers have a comprehensive understanding and ability to implement this approach effectively.
- b. It is recommended that the public needs to be given a better understanding of the importance of rehabilitation for narcotics addicts through outreach and educational campaigns. This effort can be carried out through mass media, seminars, and community discussions to reduce the negative stigma towards narcotics addicts and increase community support for restorative justice approaches.
- c. It is recommended that the Government needs to increase the capacity and quality of rehabilitation facilities by building more rehabilitation centres equipped with adequate resources. In addition, there needs to be improvements in regulations that provide more detailed guidelines and harmonization of policies at the national and regional levels to support the consistent and effective implementation of the restorative justice approach.

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