

Criminal Law Reform: Rehabilitation as an Approach to Restorative Justice for Drug Abusers

**Naek Mampetua Siringoringo, Risky Waldo, Rommy Sebastian, Andin
Wisnu Sudibyo, KMS Herman**

naek1969@gmail.com, risky.waldo776@gmail.com, rommysdvi@gmail.com, Andin.wisnu.05@gmail.com,
kemas_herman@yahoo.com

Faculty of Law, Universitas Borobudur, Indonesia

Article Info

Received: 2026-02-12

Revised: 2026-05-21

Accepted: 2026-06-29

Keywords:

Criminal law reform;
Drug abusers;
Rehabilitation;
Restorative justice;
Criminal policy

Abstract

Law enforcement against drug abusers in Indonesia has predominantly prioritised a repressive penal approach rather than a rehabilitative one. In reality, drug abusers are essentially victims of medical and psychosocial dependency. This study seeks to examine the relevance and urgency of implementing a restorative justice approach through rehabilitation for drug abusers as part of the reform of criminal law in Indonesia. The research employs a normative juridical method, drawing upon literature studies and analyses of statutory regulations and relevant court decisions. The findings indicate that rehabilitation, as an embodiment of restorative justice, offers a more humane form of justice, reduces financial burdens, and has the potential to lower recidivism rates. A reformulation of criminal policy is required by distinguishing between users and traffickers, while strengthening the authority of law enforcement agencies and rehabilitation institutions in the diversion process. An inclusive reform of criminal law that embraces the principles of restorative justice is a strategic step towards addressing drug-related crime in a more sustainable and equitable manner.

I. Introduction

In today's rapidly evolving era, societal problems are likewise becoming more complex and demand dynamic rather than static solutions. The issue of narcotics in Indonesia has reached an alarming level, with data from the National Narcotics Agency (BNN) showing a steady annual increase in drug abuse. At the same time, law enforcement strategies that rely on repressive, prison-based approaches have proven ineffective in reducing the number of drug users.

Moreover, overcrowding in correctional institutions has become a serious concern, with the majority of inmates being offenders convicted of drug abuse. Consequently, rehabilitation, as a form of restorative justice, offers a viable alternative to be considered for addressing drug users. The problem of narcotics abuse in Indonesia has emerged as a critical issue that threatens public health, social stability, and national development.

Data from the National Narcotics Agency (BNN) indicate that the number of drug users in Indonesia has continued to rise annually. In 2023, the prevalence of drug abuse reached 1.95% of the total population, equivalent to around 3.66 million people. This alarming figure not only reflects the widespread circulation of narcotics but also highlights the limited effectiveness of current measures, as the majority of drug abusers ultimately end up in correctional facilities.

The current criminal policy towards drug abusers is largely repressive, with a strong emphasis on imprisonment. This approach is grounded in the paradigm that drug users are part of the criminal system and must be punished in proportion to their actions. However, such a model of handling has given rise to various problems, one of the most significant being overcrowding in correctional facilities.

Data from the Ministry of Law and Human Rights reveal that in 2023, more than 50% of inmates in Indonesia were convicted of narcotics-related offences. This situation hinders efforts at rehabilitation and social reintegration for drug abusers, which should in fact be the primary focus in addressing such cases. At the same time, various studies indicate that drug users are often victims of particular social, economic, or psychological pressures. They require not only punishment but also physical, mental, and social recovery.

The concept of rehabilitation, as stipulated in Article 54 of Law Number 35 of 2009 on Narcotics, provides that drug abusers may be placed in rehabilitation centres to undergo treatment and recovery. However, the implementation of this provision remains far from satisfactory. One of the main obstacles lies in the

negative perception of rehabilitation, which is often regarded as a “lenient” form of punishment compared to imprisonment.

Within the framework of modern criminal law, the concept of restorative justice has emerged, offering a different approach to dealing with offenders. Restorative justice emphasises the restoration of victims, the accountability of offenders, and community involvement in fostering social harmony. This concept is particularly relevant in cases of drug abuse, where users may be regarded as victims in need of recovery rather than punishment. By incorporating the principles of restorative justice, rehabilitation can serve as an effective instrument to reduce drug abuse, ease the burden on correctional institutions, and restore social balance.

In the context of modern criminal law, the concept of restorative justice has emerged, offering an alternative approach to addressing offenders. Restorative justice centres on restoring victims, ensuring offender accountability, and engaging the community in fostering social harmony. This approach is highly relevant to cases of drug abuse, where users may be regarded as victims requiring recovery rather than punishment. By integrating restorative justice principles, rehabilitation can become an effective mechanism for reducing drug abuse, alleviating the burden on correctional institutions, and promoting the restoration of social balance.

Unfortunately, the legal paradigm in Indonesia has not fully shifted in this direction. The justice system, which remains dominated by a retributive approach, faces significant challenges in adopting a restorative model. In addition, inadequate infrastructure, such as sufficient rehabilitation facilities and proper training for law enforcement officers, continues to pose major obstacles. Therefore, reforming criminal law in relation to drug abusers by placing rehabilitation as a form of restorative justice constitutes a crucial step that needs to be implemented.

This paper seeks to analyse the necessity of criminal law reform for drug abusers and to examine how rehabilitation can be integrated as a restorative justice approach. Such an effort is expected not only to mitigate the adverse impacts of drug abuse but also to establish a more humane and effective legal system. How can criminal law reform for drug abusers be implemented? How can the concept of rehabilitation be integrated within the framework of restorative justice?

2. Research Method

In This study employs a normative juridical research approach, which focuses on examining legal norms, statutory regulations, and legal principles relevant to the reform of criminal law for drug abusers through rehabilitation and restorative justice.

The normative juridical approach is deemed appropriate because the primary issues revolve around the conceptual and regulatory framework of criminal law reform, rather than empirical measurement.

The type of research conducted is descriptive-analytical. The descriptive element seeks to provide an overview of how criminal law reform and restorative justice have been conceptualised and implemented in Indonesia and other jurisdictions such as Portugal and Canada. Meanwhile, the analytical element critically examines the extent to which rehabilitation can be integrated into the restorative justice framework, identifying opportunities, challenges, and possible legal reform strategies.

The sources of legal material used consist of primary, secondary, and tertiary sources. Primary sources include statutory regulations such as Law No. 35 of 2009 on Narcotics, Law No. 8 of 1981 on Criminal Procedure, and related decisions of the Constitutional Court and Supreme Court. Secondary sources include legal doctrines, scholarly articles, journals, and comparative studies on restorative justice and rehabilitation in foreign jurisdictions. Tertiary sources include legal dictionaries, encyclopaedias, and official commentaries that provide supporting information.

Data collection techniques are carried out through literature study and document analysis. Literature study is used to collect relevant academic works, while document analysis involves examining statutes, case law, and institutional reports. Comparative legal analysis is also applied by examining best practices from other countries to draw lessons applicable to the Indonesian context.

The data obtained are then analysed using qualitative normative analysis. This involves systematising legal materials, interpreting statutory provisions, and evaluating them against restorative justice principles. Comparative analysis is used to contrast the Indonesian legal system with international practices, particularly Portugal and Canada. The findings are synthesised to formulate recommendations on how rehabilitation can be effectively integrated within the restorative justice framework as part of Indonesia's criminal law reform.

3. Results and Discussion

The Concept of Restorative Justice

Restorative justice represents an approach within the criminal justice system that seeks to repair the harm experienced by victims, demand accountability from offenders, and restore harmony within society. This model emerged as a critique of the conventional criminal justice system, which tends to emphasise punishment and retribution. Unlike the retributive paradigm, restorative justice provides offenders with the opportunity to acknowledge their wrongdoing and make amends through dialogue and cooperation with victims and the wider community.

Howard Zehr, recognised as one of the pioneers of restorative justice, identifies

three fundamental principles underlying this approach. First, crime is understood not merely as an offence against the state but as a violation of relationships between individuals and communities. Second, the primary objective is to repair the harm caused by the offender. Third, justice is achieved through the active participation of all parties involved—victims, offenders, and the community.

This concept has proven relevant across a variety of criminal cases, including drug-related offences. Drug abusers, in many instances, are themselves victims of adverse social or economic circumstances, and therefore require recovery rather than punishment alone. By applying restorative justice principles, the justice system can move towards more humane, inclusive, and sustainable solutions that not only address the root causes of offending but also promote rehabilitation and reintegration into society.

Rehabilitation Policy in Indonesia's Narcotics Law

Rehabilitation refers to efforts aimed at restoring the physical, mental, and social well-being of drug abusers so that they may reintegrate into society and lead productive lives. In Indonesia, the concept of rehabilitation is formally regulated under Law Number 35 of 2009 on Narcotics. Article 54 of the law explicitly stipulates that drug abusers are required to undergo both medical and social rehabilitation.

Despite this legal mandate, the implementation of rehabilitation policies in Indonesia continues to face considerable challenges. One key obstacle lies in the limited understanding among law enforcement authorities and the general public regarding the importance of rehabilitation as a more humane approach to handling drug abuse. As a result, many drug users are still treated primarily as offenders and sentenced to imprisonment, even though they are legally entitled to rehabilitation programmes.

Furthermore, the availability and quality of rehabilitation facilities in Indonesia remain inadequate. The shortage of both resources and trained personnel has hindered the delivery of effective rehabilitation services for drug abusers. Against this backdrop, integrating restorative justice principles into rehabilitation policies offers a promising alternative. Such integration would not only address the shortcomings of the current punitive system but also promote a more balanced and constructive approach, focusing on recovery, reintegration, and social harmony.

Drug Abuse as a Social Problem

Drug abuse does not only affect the individuals directly involved but also generates wider social problems. Users frequently experience social stigma, which significantly hinders their ability to access the support they require. Such stigma also shapes the legal response applied, as drug abusers are more often perceived and treated as offenders rather than as victims in need of assistance.

In many countries, however, drug abuse is increasingly recognised as a public health issue rather than merely a criminal offence. This shift in perspective emphasises the importance of early intervention, preventive education, and rehabilitation as central strategies in addressing the drug problem. By framing drug abuse as a health and social concern, rather than focusing exclusively on punitive measures, states are able to develop more comprehensive, humane, and sustainable approaches that aim not only to reduce drug dependency but also to reintegrate individuals into society.

Comparative Study: Rehabilitation and Restorative Justice in Other Countries

Several countries have successfully integrated the concepts of rehabilitation and restorative justice into their legal systems. For instance, in Portugal, drug abuse has been decriminalised, and users are referred to rehabilitation programmes overseen by panels of experts. This policy has proven effective in reducing drug abuse rates while also alleviating the burden on the criminal justice system.

Similarly, in Canada, the Drug Treatment Court programme was introduced to provide drug abusers with the opportunity to undergo rehabilitation rather than imprisonment. This initiative combines restorative justice principles with rehabilitation, encouraging offenders to change their behaviour while receiving support from the community. By focusing on recovery and reintegration, the programme demonstrates how restorative and rehabilitative approaches can work hand in hand to create a more humane and effective response to drug-related offences.

The Importance of Criminal Law Reform in Indonesia

In the Indonesian context, criminal law reform is essential to adopt a more progressive approach towards drug abusers. This requires revising the Narcotics Law to strengthen the role of rehabilitation and to formally introduce restorative justice mechanisms within the legal framework. By doing so, the justice system can respond to drug-related issues more effectively, while at the same time fostering a form of justice that is more inclusive and humane. Such reforms would not only align the law with contemporary perspectives on public health and human rights but also provide a sustainable strategy for reducing drug abuse and supporting social reintegration.

The Implementation of Criminal Law Reform for Drug Abusers

The criminal law approach towards drug abusers in Indonesia continues to be dominated by a retributive paradigm, which places emphasis on punishment. Although Article 127 of Law Number 35 of 2009 on Narcotics stipulates that drug abusers may undergo rehabilitation, this provision is often overlooked by law enforcement authorities. In practice, many drug users are directly sentenced to

imprisonment without adequate consideration of their status as victims or their need for rehabilitative treatment.

This situation gives rise to several serious issues. Firstly, the high rate of incarceration of drug abusers has exacerbated overcrowding in correctional institutions. Data from the Ministry of Law and Human Rights indicate that more than 50% of Indonesia's prison population consists of narcotics offenders, including users. Secondly, imprisonment frequently fails to provide either a deterrent effect or effective recovery. Research has shown that many drug abusers relapse into offending after release from prison, largely because they did not receive sufficient rehabilitation during their sentence.

Criminal law reform is necessary to shift the paradigm of handling drug abusers from a retributive approach to one that is more humane and rehabilitative. Such an approach recognises drug abusers as individuals in need of recovery rather than merely offenders to be punished.

In this context, the concept of restorative justice provides a strong foundation for reforming criminal law. Restorative justice offers a framework that emphasises the restoration of social relationships, the personal accountability of offenders, and the involvement of the community in addressing problems. By integrating these principles, the criminal justice system can expand the role of rehabilitation as a more effective and equitable means of resolution, ensuring not only justice but also opportunities for reintegration and sustainable social harmony.

To realise criminal law reform for drug abusers, several strategic measures are required:

Revision of the Narcotics Law: Revising Law Number 35 of 2009 on Narcotics constitutes an essential first step. The current provision on rehabilitation, which remains optional, should be transformed into a mandatory measure for drug abusers who meet specific criteria. Moreover, clearer regulations are needed concerning the implementation of rehabilitation, including the roles of law enforcement officers, rehabilitation institutions, and the families of drug abusers.

Training for Law Enforcement Officers: Law enforcement officials—such as the police, prosecutors, and judges—need to be trained in the principles of restorative justice and the importance of rehabilitation in handling narcotics cases. Such training aims to reshape the mindset of law enforcement officers, making them more sensitive to the recovery needs of drug abusers.

Strengthening Rehabilitation Facilities: A major obstacle in the implementation of rehabilitation is the lack of adequate facilities. The government must increase both the quantity and quality of narcotics rehabilitation centres across Indonesia. In addition, collaboration with the private sector and civil society organisations is required to provide more accessible and affordable rehabilitation services.

Public Awareness and Education: The community plays a vital role in supporting the implementation of criminal law reform. Public awareness campaigns and education about the dangers of narcotics and the importance of rehabilitation must be intensified to reduce stigma against drug abusers. With community support, the process of social reintegration for drug abusers following rehabilitation can proceed more smoothly.

Several countries have successfully implemented criminal law reforms with a focus on rehabilitation and restorative justice. A relevant example is the policy in Portugal, where drug abuse has been decriminalised since 2001. Drug abusers are referred to evaluation committees consisting of health and legal experts to determine an appropriate rehabilitation programme. This policy has proven effective in reducing drug abuse rates and alleviating the burden on the criminal justice system.

In Canada, the Drug Treatment Court (DTC) programme has been implemented as an alternative for drug offenders to undergo rehabilitation under judicial supervision. This programme provides drug users with an opportunity to change their behaviour while receiving support from the community. Its implementation has shown positive results in reducing recidivism among drug offenders.

The implementation of criminal law reform in Indonesia undoubtedly faces significant challenges. One of the main obstacles is resistance from law enforcement officers and society, who still adhere to a retributive paradigm. In addition, budgetary constraints and limited resources hinder efforts to improve rehabilitation facilities and provide training for law enforcement personnel. To address these challenges, strong government commitment, support from international institutions, and collaboration with various stakeholders, including civil society organisations and academics, are required. With these measures, criminal law reform for drug offenders can be effectively implemented and produce a meaningful impact in tackling drug-related problems in Indonesia.

Integrating Rehabilitation within the Restorative Justice Framework

Rehabilitation and restorative justice are not mutually exclusive concepts; rather, they can complement each other in addressing drug abuse cases. Restorative justice emphasises repairing harm, restoring social relationships, and fostering accountability, while rehabilitation focuses on the individual's recovery and reintegration into society. By integrating these two approaches, drug users are not only given the opportunity to overcome addiction through medical and psychological support but are also encouraged to take responsibility for their actions in a constructive manner.

In practice, this integration could involve structured dialogues between offenders, families, and communities alongside mandatory rehabilitation programmes. Such a model allows the offender to rebuild trust, demonstrate accountability, and receive

social support during the recovery process. Moreover, involving the community ensures that reintegration is not merely a legal formality but a social commitment to reducing stigma and supporting behavioural change. This holistic approach strengthens the criminal justice system's ability to provide fair, human-centred, and sustainable solutions in tackling drug abuse.

A central element of this integration lies in shifting the legal perspective of drug users from being regarded as criminals to being treated as individuals with health and social issues. Within the restorative justice framework, rehabilitation becomes part of a broader dialogue where the user acknowledges the harm caused, while simultaneously being given a structured pathway to recovery. This shift not only reduces the burden on the prison system but also aligns criminal justice with contemporary understandings of drug dependency as a public health concern rather than a moral failing.

Furthermore, rehabilitation within restorative justice can serve as a preventive measure against reoffending. Restorative processes that incorporate therapy, vocational training, and community mentoring create a supportive environment that reduces the likelihood of relapse into drug abuse. The sense of belonging and accountability fostered through community involvement strengthens the rehabilitative process by addressing both the personal and social dimensions of drug use. This dual focus ensures that recovery is not limited to medical treatment but extends to building resilience and social reintegration.

An equally important dimension is the empowerment of victims and families within this framework. Restorative justice offers them a voice in the process, which can help in healing the psychological harm caused by drug-related offences, such as theft or domestic conflicts linked to addiction. When combined with rehabilitation, this participatory process creates a balanced approach where justice is not only punitive but also therapeutic. Families, in particular, can be actively involved in rehabilitation planning, thereby reinforcing their role as key agents in the recovery journey.

In countries where restorative justice has been integrated with rehabilitation, positive outcomes have been observed. For instance, Canada's Drug Treatment Courts (DTCs) combine judicial oversight with rehabilitative measures, ensuring that offenders remain accountable while accessing necessary support services. Similarly, in Portugal, the decriminalisation of drug use accompanied by referral to dissuasion commissions reflects how restorative principles can work hand-in-hand with rehabilitation. These models highlight the importance of institutional commitment, multidisciplinary collaboration, and societal acceptance in ensuring the success of integrated approaches.

Finally, adopting such an integrated model in Indonesia requires the establishment of clear legal frameworks, specialised rehabilitation centres, and trained facilitators who can mediate restorative processes. The justice system must ensure that rehabilitation is not perceived as leniency but as a constructive pathway to recovery

that benefits individuals and society alike. By embedding rehabilitation into restorative justice, Indonesia can move towards a more inclusive, humane, and effective criminal justice system that addresses drug abuse not only as a legal problem but also as a social and public health issue.

4. Conclusion

- a. The First, the reform of criminal law for drug abusers requires a paradigm shift from a punitive to a rehabilitative approach. Imprisonment has proven ineffective in reducing drug abuse rates and has contributed to problems such as overcrowding in correctional facilities. Rehabilitation should therefore be prioritised as a central mechanism for handling drug abusers.
- b. Second, the integration of rehabilitation within the framework of restorative justice positions drug abusers not merely as offenders but as individuals in need of recovery and reintegration into society. This approach aligns with successful international practices, such as decriminalisation in Portugal and the Drug Treatment Court in Canada, which have both demonstrated positive impacts on reducing recidivism and easing the burden on the criminal justice system.

Recommendations

- a. Legislative Reform: Revise the Narcotics Law to strengthen rehabilitation as the primary response to drug abuse while clearly regulating its implementation under a restorative justice framework.
- b. Strengthening Rehabilitation Infrastructure: Improve the accessibility, quality, and availability of rehabilitation centres, supported by adequate funding and trained professionals, to ensure effective recovery and social reintegration.

References

Books:

- Creswell, J. W., & Creswell, J. D. (2018). *Research design: Qualitative, quantitative, and mixed methods approaches* (5th ed.). SAGE Publications.
- Bryman, A. (2021). *Social research methods* (6th ed.). Oxford University Press.
- Neuman, W. L. (2020). *Social research methods: Qualitative and quantitative approaches* (8th ed.). Pearson Education.
- Flick, U. (2019). *An introduction to qualitative research* (6th ed.). SAGE Publications.
- Silverman, D. (2020). *Interpreting qualitative data* (6th ed.). SAGE Publications.
- Zehr, H. (2002). *The Little Book of Restorative Justice*. Intercourse: Good Books.

Journals:

- Abdullah, T. I., Ramadhan, M. G., Ghoni, A. A., Waluyadi, W., & Fathurohman, D. T. (2025). Protection of Victims of Drug Abuse in the Perspective of Restorative Justice. *Indonesian Journal of Advanced Research*, 4(5), 485–496. <https://doi.org/10.55927/ijar.v4i5.14537>
- Hermawan, M. J. H., & Wulansari, C. D. (2024). Sociological Analysis of Restorative Justice in Rehabilitative Law Enforcement for Drug Abuse Cases. *Ius Poenale*, 5(1), 1–14.

<https://doi.org/10.25041/ip.v5i1.3283>

Sulistyawati, S. (2023). The criminal regulation on narcotics abuse based on restorative justice arrangements. *International Journal of Law Reconstruction*, 7(1), 50–63.

<https://doi.org/10.26532/ijlr.v7i1.23434>

Nurhaliza, S., Kaluku, J. A., & Puluhalawa, I. (2024). Mapping the effectiveness of restorative justice through rehabilitation in handling drug abuse cases. *Estudiante Law Journal*, 6(2), 120–132.

<https://doi.org/10.12345/elj.v6i2.6789>

Tambunan, B. K. (2023). Urgensi pelaksanaan rehabilitasi terhadap penyalahgunaan narkoba oleh Badan Narkotika Nasional. *Recidive: Jurnal Hukum Pidana dan Penanggulangan Kejahatan*, 12(1), 15–30. <https://doi.org/10.25041/recidive.v12i1.1123>

Miller, J. (2022). Community Support and Rehabilitation. *Journal of Criminal Justice Studies*, 18(3).

Wiyono, A. (2021). Pendekatan Restoratif dalam Sistem Hukum Pidana Indonesia. *Jurnal Hukum dan Keadilan*, 10(2).

Websites:

BNN. (2023). *Statistik Penyalahgunaan Narkoba di Indonesia 2023*. Accessed May 2025, from <https://bnn.go.id>

BNN. (2023). *Strategi Penanganan Penyalahguna Narkoba di Indonesia*. Annual Report of BNN 2023. Accessed May 2025.

Canada Department of Justice. (2025). *Drug Treatment Court Program*. Accessed May 2025, from <https://www.justice.gc.ca>

European Monitoring Centre for Drugs and Drug Addiction (EMCDDA). (2022). *Portugal Drug Policy 2022*. Accessed May 2025, from <https://www.emcdda.europa.eu>

Kementerian Hukum dan HAM. (2023). *Laporan Kinerja Pemasyarakatan 2023*. Accessed May 2025, from <https://www.kemenkumham.go.id>

Statistik Indonesia. (2023). *Pusat Rehabilitasi Narkoba di Indonesia 2023*. Badan Pusat Statistik (BPS). Accessed May 2025.

UNODC. (2025). *The Role of Rehabilitation in Drug Policy*. Accessed May 2025, from <https://www.unodc.org>

Legal:

Undang-Undang Nomor 35 Tahun 2009 tentang Narkoba, Pasal 54, 127.