



Comparative Analysis of Restorative Justice Approaches in Narcotics Policy: Insights for Indonesia

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Abstract. This study explores restorative justice as outlined in Indonesian legislation, focusing on its recognition of case resolution through investigation termination orders and decrees. It analyzes six key variables — Policies and Laws, Practical Implementation, Recommendations, and Learnings — through comparative analysis in managing narcotics cases. Each variable sheds light on critical aspects of restorative justice application, enabling a nuanced evaluation of differences and similarities across various jurisdictions. Restorative justice manifests differently across nations, shaped by unique social, cultural, political, and legal contexts that influence its adoption and effectiveness. Comparative examination of Portugal, the Netherlands, and the United States illuminates these variations, providing insights into pivotal factors for successful implementation. By contextualizing international practices, this research aims to enrich policymaking and legal frameworks in Indonesia, promoting an inclusive and effective approach to restorative justice policies. Through comprehensive comparative analysis, this study aims to deepen understanding of the challenges and opportunities inherent in implementing restorative justice across diverse contexts. It seeks to provide actionable insights to strengthen Indonesia's judicial system, enhancing fairness and effectiveness for both the justice system and society at large. Portugal's experience with narcotics decriminalization offers valuable lessons for Indonesia, particularly in establishing evaluative institutions for effective treatment measures. While statistics highlight successful treatment referrals, the program's overall success hinges on considering each case's individual context beyond mere statistical metrics. Additionally, Portugal's experience underscores shifts in narcotics dealer behavior post-decriminalization, emphasizing the need for comprehensive policies integrating law enforcement and public health measures. Conversely, insights from the Netherlands demonstrate the positive impact of integrating restorative justice in the criminal justice system, exemplified by programs that focus on restoring relationships between involved parties. Similarly, the United States' model illustrates the potential of holistic, restorative justice approaches in handling narcotics cases. Despite ongoing development, parallels between this model and restorative justice principles suggest applicability in Indonesia's narcotics context. These insights form a foundation for developing effective strategies and policies in Indonesia, emphasizing the roles of law enforcement, community engagement, and redefining victimhood in discussions of victimless crimes.

Keywords: Restorative Justice, Comparative Analysis, Narcotics Policy.

1 Introduction

Restorative justice has been the subject of growing concern in efforts to increase effectiveness and justice in the criminal justice system, especially in the handling of narcotics cases. In this context, comparative studies of restorative justice approaches are becoming increasingly relevant to explore the dynamics of the complexity of legal systems in different countries.

In Indonesia itself, normatively the regulation of narcotics restorative justice is related to several regulations:

- a) Code of Criminal Procedure
- b) Law Number 35 of 2009 concerning Narcotics
- c) The Republic of Indonesia Supreme Court's Circular Letter No. 4 of 2010 on the Placement of Drug Abuse, Abuse Victims, and Addicts in Medical Rehabilitation and Social Rehabilitation Facilities
- d) Republic of Indonesia Supreme Court Circular Letter Number 3 of 2011 on the Placement of Narcotic Abuse Victims in Medical Rehabilitation and Social Rehabilitation Facilities
- e) Joint Regulation of the Attorney General of the Republic of Indonesia, the Chief of the National Police of the Republic of Indonesia, the Head of the National Narcotics Agency of the Republic of Indonesia, the Chief Justice of the Supreme Court of the Republic of Indonesia, the Minister of Law and Human Rights of the Republic of Indonesia, the Minister of Health of the Republic of Indonesia, and the Minister of Social Affairs of the Republic of Indonesia Numbers 01/PB/MA/III/2014, 03 of 2014, 11 of 2014, 03 of 2014, Per-005/A/JA/03/2014, 1 of 2014, and Perber/01/III/2014/BNN pertaining to the Management of Drug Addicts and Narcotic Abuse Victims in Rehabilitation Facilities.
- f) The Attorney General's Guidelines Number 18 of 2021 in Implementing the Prosecutor's Dominus Litis Principle through Rehabilitation and a Restorative Justice Approach in the Settlement of Narcotics Abuse Crime Cases
- g) Police Regulation of the Republic of Indonesia Number 8 of 2021 concerning the Handling of Criminal Acts based on Restorative Justice (Perpol No. 8 of 2021)

Perpol No. 8 of 2021 was born to provide a foundation for the Indonesian National Police (Polri) in handling criminal acts based on restorative justice. In the consideration section, Perpol No. 8 of 2021 refers to one law and regulation, namely Law Number 2 of 2002 concerning the Police.

Perpol No. 8 of 2021 regulates restorative justice, which in this case is not limited to narcotics crimes. Article 5 of Perpol No. 8 of 2021 regulates material requirements as part of the general requirements for the implementation of restorative justice as follows:

- a) doesn't lead to social dissatisfaction and/or rejection;
- b) doesn't influence social disputes;
- c) doesn't have the capacity to split the country;
- d) isn't radicalism and separatist
- e) not a recurrence of an offense determined by a court ruling; and
- f) it is not a crime against people's lives, a crime against state security, a crime of corruption, or a crime of terrorism.

The recognition of narcotics crimes as part of the scope of Perpol No. 8 of 2021 can be seen from the formal requirements. In Article 6 Paragraph (1) letter (a) of Perpol No. 8 of 2021, it is stipulated that “peace from both parties, except for Drug Crimes.” This arrangement shows that Perpol No. 8 of 2021 has recognized: (1) the existence of narcotics crimes as one of the criminal acts as referred to in Perpol No. 8 Tahun 2021, and (2) that narcotics crimes are criminal acts that do not distinguish the concept of perpetrators and victims on two/more parties, so that peace between perpetrators and victims does not become relevant.

More specific regulations on narcotics crimes are contained in Article 9 of Perpol No. 8 of 2021, namely:

Article 9

- 1) According to Article 7 letter b, special conditions for drug crimes include:
 - a) Special circumstances for drug offenses are as follows, per Article 7 letter b:
 - b) At the time of being caught:
 - found evidence of drug use 1 (one) day with the classification of narcotics and psychotropics in accordance with the provisions of laws and regulations; and
 - no evidence of Drug Crimes was found, but the results of the urine test showed positive for drugs;
 - c) not a part of the drug crime, dealer, or dealer network;
 - d) Assessments have been carried out by the Integrated Assessment Team; and
 - e) not a part of the drug crime, dealer, or dealer network;
- 2) The integrated assessment team as referred to in paragraph (1) d is carried out in accordance with the provisions of laws and regulations.

Thus, the description of Article 9 of Perpol No. 8 of 2021 above is also related to Law No. 35 of 2009 concerning Narcotics which regulates the definition of narcotics addicts and assessment mechanisms. Meanwhile, regarding the limitation of evidence of one-day use, it has to do with the Supreme Court's Circular Letter Number 4 of 2010 about the placement of abuse victims, abuse victims, and drug addicts in institutions for medical and social rehabilitation.

(SEMA No. 4 of 2010). In SEMA No. 4 of 2010, it is regulated regarding the normative limit of ‘1 day of use’:

1.	Metamphetamine group (shabu)	1 gram
2.	MDMA group (ecstasy)	2.4 grams = 8 grains
3.	Heroin Group	1.8 grams
4.	Cocaine Group	1.8 grams
5.	Cannabis Group	5 grams
6.	Coca Leaves	5 grams
7.	Coca Leaves	5 grams
8.	Psilocybin Group	3 grams
9.	LSD (d-lysergic acid diethylamide) group	2 grams
10.	PCP (phencyclidine) group	3 grams
11.	Fentanyl Group	1 gram
12.	Methadone Group	0.5 grams
13.	Morphine Group	1.8 gram
14.	Petidin Group	0.96 grams
15.	Codeine Group	72 grams

16. Buforenofin Group

32 mg

As for the form of restorative justice in Perpol No. 8 of 2021, it is stated in Article 2 Paragraph (5) that an investigation or investigation can be stopped. This shows that Perpol No. 8 of 2021 views that the settlement of cases based on an investigation termination order and an investigation termination decree is considered a form of restorative justice (Article 16 Paragraph (2) letter f.) This study explicates six key variables that will be the focus of comparison in the analysis of restorative justice approaches to narcotics cases, namely:

- 1) Policies and Laws
- 2) Practical Implementation
- 3) Recommendations and Learnings

Each variable reflects an important aspect of the implementation of restorative justice in the context of narcotics cases, and allows this study to identify differences and similarities in existing practices as well as generate a deeper understanding of the challenges and opportunities in the application of this approach. By understanding and analyzing these variables, this study is expected to make a significant contribution to the development of policies, legal practices, and public understanding of the restorative justice approach in handling narcotics cases.

The implementation of restorative justice is not necessarily the same in every jurisdiction. Each country has its own unique social, cultural, political, and legal context, which influences how restorative justice approaches are applied and accepted by society and legal institutions. For example, in some countries, restorative justice may have been officially recognized by law, while in others, it may still be in the development stage or has not been formally recognized. In addition, the level of support from government agencies and the community can also vary, affecting the resources available for its implementation and sustainability.

Therefore, this comparative study will help to unearth differences and similarities in the implementation of restorative justice in different countries, allowing for a deeper understanding of the factors that influence the success and challenges of implementing this approach. As such, this research will not only provide an understanding of the various existing practices and approaches, but will also provide valuable insights for policymakers and legal practitioners on how they can adapt and strengthen the implementation of restorative justice in their respective legal and social contexts.

This comparative study not only aims to understand the differences and similarities in the implementation of restorative justice in various jurisdictions, but also to provide lessons for the implementation of restorative justice in Indonesia. By analyzing the best practices and challenges faced by other countries, this study will provide valuable insights for stakeholders in Indonesia in designing more effective policies and strategies to implement restorative justice approaches.

Through this learning, it is hoped that the implementation of restorative justice in Indonesia can be strengthened, so that it can provide greater benefits to the justice system and society as a whole. Thus, this research is expected to be a valuable contribution to the development of a fairer and more effective judiciary in Indonesia.

This comparative study will take comparative objects from Portugal, the Netherlands, and the United States. The selection of these countries is based on a wide variety in the

implementation of restorative justice, as well as representation of various cultural, social, political, and legal contexts. By selecting countries with significant diversity, this study aims to gain comprehensive insights into various approaches and practices of restorative justice that may provide valuable lessons for implementation in Indonesia.

In that regard, this study inquires: How do the diverse implementations of restorative justice in Portugal, the Netherlands, and the United States inform the development of effective and inclusive restorative justice policies in Indonesia, considering the unique cultural, social, political, and legal contexts of each country?

Through comparisons between these countries, it is hoped that this study will provide a deeper understanding of the challenges and opportunities in implementing restorative justice in various contexts, as well as provide a framework for more effective and inclusive policymaking in the future.

2. Comparative Variables

2.1 Policies and Laws

This variable highlights the important role of policies and legal frameworks in regulating restorative justice approaches at the national and local levels. Through an in-depth analysis of related laws, regulations, and guidelines, the research can identify differences and similarities in regulatory approaches across different countries and in Indonesia. Evaluation of the consistency of implementation and application of these policies allows for a better understanding of the extent to which the principles of restorative justice are reflected in real practice, as well as the challenges that may be faced in adopting this approach in various legal contexts.

With a deeper understanding of the legal framework that governs restorative justice, research can provide valuable insights for policymakers and legal practitioners in designing and implementing policies that support the development of effective and sustainable restorative approaches. In addition, an analysis of implementation consistency can also provide a more comprehensive view of the challenges faced in expanding the application of restorative justice in the future, as well as provide a basis for cross-country comparisons and learnings that can enrich practices and policies at the global level.

2.2 Practical Implementation

This variable highlights the importance of considering the practical implementation of restorative justice concepts by law enforcement agencies in various state contexts. Through indepth analysis, the research can evaluate the extent to which the principles of restorative justice are reflected in operational policies, law enforcement procedures, and practices in the field. This includes an understanding of how mechanisms such as mediation, group conferences, and other restorative processes are applied in handling criminal cases, as well as the factors that affect the level of engagement and support for those processes.

By analyzing the practical implementation of restorative justice concepts, this study can identify the challenges faced in implementing this approach at the operational level. This information can provide valuable insights for policymakers and legal practitioners in developing more effective strategies to support and improve the implementation of restorative justice. In addition, by understanding the factors influencing the implementation of restorative practices in various contexts, we can identify opportunities to overcome barriers and strengthen these approaches in an effort to improve justice and the effectiveness of the justice system.

This variable also focuses on understanding the organizational structure and processes implemented in the restorative justice approach in various countries. This involves an in-depth analysis of how community participation, victim and perpetrator involvement, as well as decisionmaking and recovery procedures, are reflected in the practice of restorative approaches. By studying the organizational structure used in the restorative approach, this study can identify differences and similarities in the roles and responsibilities given to various parties involved in the restorative process in different countries.

Through an understanding of the processes used in the restorative approach, research can delve deeper into the effectiveness and challenges that may be faced in its implementation. Analysis of victim and perpetrator involvement, as well as decision-making procedures used in the context of restorative justice, can provide perspectives for policymakers and legal practitioners in designing and implementing more effective and inclusive processes. Through an understanding of the structural and process dynamics in restorative approaches, states can better understand how these approaches can help in promoting reconciliation and restoration in the context of criminal justice.

This variable also evaluates the results and effectiveness of the application of the restorative justice approach. This evaluation includes an assessment of the social, economic, and psychological impacts generated by the approach, either directly or indirectly. In addition, this variable also focuses on the effectiveness of restorative approaches in reducing crime rates, increasing public satisfaction with the justice system, and promoting reconciliation between parties involved in criminal conflicts.

Through the study of the results and effectiveness of the restorative justice approach, the research can provide deeper insights into the impact of restorative practices on society and the justice system. An analysis of the effectiveness of these approaches in achieving the set goals, such as crime reduction and victim rehabilitation, can provide a solid basis for policymakers and legal practitioners to design and implement more effective strategies to promote justice and reconciliation in the justice system.

In addition, practical implementation also focuses on the exploration of cultural, social, economic, and political factors that play a role in the implementation and acceptance of the restorative justice approach in various countries. An in-depth analysis of these variables allows for a better understanding of how local cultural values affect the acceptance and implementation of restorative justice practices. In addition, it is also important to consider social and political dynamics that can affect acceptance of restorative approaches, such as political support, resistance from certain interest groups, and economic factors that affect the accessibility and sustainability of program implementation.

Through the analysis of cultural, social, economic, and political factors influencing the acceptance and implementation of restorative justice approaches, research can provide a more holistic understanding of the challenges and opportunities in applying these approaches in various contexts. This information can provide a basis for policymakers, legal practitioners, and other stakeholders to design more effective strategies for addressing barriers related to cultural, social, economic, and political factors, as well as strengthen public support for restorative justice approaches.

2.3 Recommendations and Learnings

This variable focuses on identifying recommendations and lessons learned from best practices in restorative justice approaches in other countries, with the aim of being applied in the Indonesian context. Through an in-depth analysis of experiences and lessons learned from the implementation of restorative justice in various countries, the research can identify effective strategies and approaches to strengthen the implementation of restorative approaches in Indonesia. It includes an evaluation of the success of these practices in achieving goals such as reconciliation, rehabilitation, and crime reduction, as well as the identification of key factors that support the successful implementation.

Taking into account recommendations and learnings from best practices in some of these countries, this review can make a valuable contribution to policymakers and legal practitioners in designing more effective and sustainable strategies to strengthen restorative justice approaches in Indonesia. The information obtained from this analysis can be used as a basis for formulating more effective policies, identifying opportunities for collaboration with international institutions, and improving public understanding of the benefits and principles of restorative approaches in the context of Indonesian justice.

3. Portugal

3.1 Policies and Laws

Since 2001, Portugal has implemented the Portuguese Model Narcotics Policy (Portuguese Drug Policy Model/PDPM) which revokes the illegal status of the use, acquisition, and possession of narcotics publicly and privately, as long as it does not exceed the amount required for average individual use for 10 days (based on Law no. 30/2000, dated November 29, 2000).[1]

According to the PDPM, Portugal eliminates the distinction between mild and hard types of narcotics. This makes the use of narcotics an administrative violation that can be sanctioned, but not a crime.[1]

Supervision of narcotics use is vested in the Commission for the Prevention of Narcotics Addiction, established by Legal Decree no. 130-A/2001 (January 23, 2001). PDPM is considered to be in line with the belief that War on Drugs ineffective.[1] Portugal is committed to ensuring respect for the rights of individuals who use

narcotics. This policy is also in line with a broader global trend, particularly in Europe, to reduce penalties for narcotics use.[1]

This paradigm change has shifted the approach to handling narcotics use from the dimension of public order to the dimension of public health. As a consequence, there is a difference in treatment between users and dealers, where users are seen as individuals who need medical treatment while dealers are considered criminals. These changes have given rise to intense academic discussions, both at the national and international levels, and have led to the emergence of opposing rhetoric, sometimes seen as successful.[2] Nevertheless, some observers also see the developments in Portugal as a failure.[3] It is therefore not surprising that substantial international media attention is also following these changes. However, This outcome is anticipated, even without an increase in drug use, due to the cohort effect. In the sample, from one study to another, older individuals who never tried drugs are replaced by a new generation, a significant percentage of whom have already had that experience.[4]

Nonetheless, in the long term, the rate decreased following decriminalization to 21.6% in 2006.[4] For the same groups, prevalence rates for psychoactive substances have also declined after decriminalization.[4] Since decriminalization, prevalence rates for almost all substances have dropped for those two crucial young groups (ages 13–15 and 16–18).[4] During the same time span, the percentage of newly diagnosed HIV and AIDS patients who also have a drug addiction has steadily declined.[4]

3.2 Practical Implementation

Based on the PDPM, it is also determined about the establishment of the Narcotics Addiction Prevention Commission (Commissions for the Dissuasion of Drug Addiction/CDT). Based on the existence of CDT, when users are caught using narcotics, they will be evaluated at CDT.

If deemed necessary, they will be advised to undergo a number of types of treatment and avoid administrative fines and other light sanctions. In the 2009 report, there were a total of 7,346 incidents related to narcotics.[3] A total of 2,816 of them were identified as non-narcotics users, 2,075 are still awaiting evaluation, and 783 are considered addictive users.[3]

A total of 661 of these 783 voluntarily agreed to undergo treatment in order to suspend the legal process temporarily. A total of 166 of the 661 individuals were found to have no history of contact with previous treatment facilities.[3] A total of 127 individuals had previously participated in treatment but stopped.[3] A total of 368 individuals were undergoing treatment when they were caught violating the law.[3] This means that the CDT team, which operates in every district of the country and consists of a total of 99 technicians, has only managed to direct 166 addicts towards treatment, since the rest (127 + 368) have already been referred and are being followed in nonemergency medical facilities.[3]

However, there are things to be considered in interpreting statistics on referrals as an indicator of the success of CDT initiatives. In fact, most of the people who enter this system already have a connection to a previous treatment facility. Therefore, it is

important to look objectively at the statistical data and pay close attention to the context thoroughly.

In Portugal, since decriminalization was implemented, there has been an increase in the impression that there is freedom among small numbers of drug dealers, as most police officers do not consider it a priority to arrest drug dealers.[3]

This is also because people have been found selling small quantities of narcotics that can be seen on busy streets in Cova da Moura or Mouraria in Lisbon or in other areas of the city. Visitors to the area are often approached by individuals offering hash, cocaine, and other narcotics, sometimes even during the day. This kind of situation did not occur before decriminalization.[3]

3.3 Recommendations and Learnings

Portugal's experience in implementing narcotics decriminalization policies provides several potentially useful lessons for Indonesia. One of the main learnings is the importance of establishing institutions such as CDT that are tasked with evaluating narcotics users and providing appropriate treatment measures. Statistical data from Portugal shows that although most addicts have had previous contact with treatment facilities, there are still a number who are successfully directed to undergo treatment by the CDT team. However, it is important to be more careful in interpreting statistics directly as indicators of program success, as the individual context of each case needs to be considered thoroughly.

In addition, Portugal's experience also highlights the change in behavior among narcotics dealers after the implementation of decriminalization. There has been an increase in courage among small narcotics dealers due to the lack of law enforcement priority against them. This phenomenon is reflected in the increase in narcotics sales activities in public areas such as streets in several cities in Portugal in the early days. However, in the long run, the evidence indicates that by almost every measure, Portugal's decriminalization approach has been highly successful. Embedded within this success are clear lessons that should influence global discussions on drug policy.[4] This shows the importance of policies that not only focus on narcotics users but also on their sellers in an effort to control narcotics trafficking.

Indonesia can take lessons on the need for a comprehensive approach to dealing with the narcotics problem, which involves not only public health aspects but also law enforcement against narcotics traffickers. In addition, it is important to continuously monitor and evaluate the implementation of these policies in order to be able to tailor more effective strategies according to the local context.

4. Dutch

4.1 Policies and Laws

In 2012, the Dutch government incorporated Article 51H into the Dutch Code of Criminal Procedure, which became the first legal basis for the application of restorative justice in criminal contexts. This article regulates the obligation for law enforcement

officials, such as the police and public prosecutors, to provide information to victims and perpetrators about the possibility of mediation as an alternative to resolving cases. Furthermore, Article 51H also emphasizes that the agreement reached between the perpetrator and the victim must be considered by the judge when imposing sanctions, signaling an increase in the role of restorative justice in the Dutch criminal justice system.[5]

The presence of Article 51H provides space for judges to use discretionary considerations in sentencing the defendant, taking into account the provisions contained in the article.[5] The principles of restorative justice embedded in Article 51H show recognition of the importance of considering the humanitarian aspect in handling criminal cases, especially in the context of the treatment of the defendant. Thus, this article reflects a paradigm shift in the criminal justice system towards a more holistic and humane approach in dealing with violations of the law.

Article 51 of the Dutch Code of Criminal Procedure:

- 1) The public prosecutor will support notification from the police, as early as possible, of possible mediation to the victim and the defendant.
- 2) The court must take into account any agreements reached during mediation between the defendant and the victim when determining the appropriate punishment or course of action.
- 3) After knowing that the victim has agreed to mediate, the prosecutor's office will encourage mediation between the victim and the convict.
- 4) Further provisions related to the victim's mediation and the defendant or between the offender and the victim are regulated in the Algemene maatregel van Bestuur or administrative decisions issued by administrative institutions.

In addition to the provisions stipulated in Article 51H of the Dutch Criminal Procedure Code, there are also restorative justice mechanisms available in the Dutch Criminal Code. One such mechanism is known as forgiveness by judge, which is regulated in Article 9a of the Dutch Criminal Code. Although this provision is not directly part of the agenda for the regulation of restorative justice in the planned revision of the Dutch Code of Criminal Procedure, the context shows a strong link with the principles of restorative justice. Article 9a of the Dutch Criminal Code provides a legal basis for the act of forgiveness by a judge.

Article 9a of the Dutch Criminal Code:

If it is considered to be more prudent, the court may decide in its decision that no sentence shall be imposed on the defendant, taking into account the severity of the defendant's act, the character or personality of the defendant, or the conditions at or after the act was committed by the defendant.

4.2 Practical Implementation

Although Article 51H provides the legal basis for the application of restorative justice, it is important to note that in practice, the use of discretion by judges is not always consistent. Nevertheless, the existence of Article 51H shows a positive effort by the Dutch government to accommodate the principles of restorative justice in their criminal justice system. Thus, this Article is the starting point for the integration of restorative

justice in criminal law practice in the Netherlands and provides a basis for further development in improving justice in the handling of criminal cases.

In the context of the development of the criminal justice system in the Netherlands, several programs that apply a restorative justice approach have been introduced. One of them is the HALT Program (The Alternative), which has been operating since the 1980s and has become a significant element in juvenile criminal justice in the Netherlands. [5] The program emphasizes the use of a restorative approach, in which the parties involved, including the defendant and the victim, are invited to discuss the consequences of the misconduct as well as consider an apology from the defendant. Until 2017, the HALT program has successfully facilitated the participation of around 17,000 children in order to overcome criminal cases.[5]

In addition to HALT, other programs that apply a restorative justice approach are VictimPerpetrator Mediation and Family Meetings.[5] The program was first introduced in 1990 as an initiative of local communities in the Netherlands.[5] The main focus of the program is on the relationship between child defendants and victims, with the aim of improving understanding and reducing conflicts between the two parties. Evaluation of the program showed increased satisfaction and trust in the criminal justice system, which in turn led to further development of the initiative.

Further development of this local community initiative was later inaugurated into an institution known as "Victim in Focus". The institution continues to play an important role in handling criminal cases with a restorative justice approach in the Netherlands. As of 2016, the initiative has successfully handled approximately 13,000 mediation requests, demonstrating its significant contribution to shaping a more holistic and rehabilitation-oriented criminal justice system.[5]

Article 51H of the Dutch Code of Criminal Procedure has established the legal basis for the implementation of penal mediation as an integral part of the criminal justice process. In addition, thanks to the support of the Dutch Ministry of Justice, since 2013, various mediation initiatives have emerged in different regions of the Netherlands, both those integrated in the judicial process and those operating outside the judicial system. One of the mediation initiatives that has been quite successful outside the criminal justice system is Utrecht Model for Mediation.[5],[6] Data shows that of the approximately 54 cases reported to the police, as many as 44 cases have been successfully resolved through mediation. In addition, there are other major initiatives in the context of penal mediation, which involves cooperation between the prosecutor's office, the court, court-appointed mediators, and Victim in Focus. A total of 716 cases were successfully transferred to the penal mediation process in six courts by the public prosecutor and judge, and of these, 367 cases were successfully resolved through mediation, reflecting the success of penal mediation in resolving cases from the perspective of case resolution.[5]

The police have a significant role in the implementation of the restorative justice trial project in the Netherlands, an initiative that has been highlighted before. At the national level, the police are beginning to gain an understanding and skills related to the concept of restorative justice. However, there are still police members who have not fully mastered or understood the concept. At the local level, for example in Utrecht, the police collaborate with professional mediators to handle community conflicts as well as

criminal cases.[5] An evaluation of this cooperation shows that in many cases, the police conclude that conventional legal approaches will not be effective, especially when the parties involved live in close proximity and have the potential to meet regularly. In a situation like this, the police directed the case to be resolved through mediation with the help of professional mediators.[5]

In the Dutch legal system, the management of compensation payments to victims of crime is handled by an institution called The Central Judicial Collection Agency (CJIB), which is under the auspices of the Ministry of Justice and Security. The CJIB has an important role in collecting various types of fines on behalf of government agencies, including traffic fines, compensation for victims, and payment of fines due to court rulings or public prosecutors' decisions, as well as other administrative fines.

In carrying out its duties in collecting fines given through court decisions or prosecutors' decisions, CJIB establishes Center for the Execution Chain (AICE).[5] AICE is tasked with coordinating the sentencing process with various agencies, including the Police, Prison Institutions, and Correctional Policy Services. The collaboration between these institutions in a chain of coordination aims to ensure that convicts actually meet the sanctions set in accordance with applicable law.

4.3 Recommendations and Learnings

The Dutch experience in applying restorative justice in handling narcotics cases provides a number of relevant lessons for Indonesia. However, there are several challenges that need to be overcome to realize effective and sustainable implementation. First, it is important to ensure consistency in the application of the principles of restorative justice by judges and other legal practitioners. Although there are legal grounds such as Article 51H that support the application of restorative justice, discretion that is inconsistent in practice can hinder the effectiveness of the system.

Second, learning from programs that have been implemented in the Netherlands, such as the HALT Program and Victim-Perpetrator Mediation, show that a restorative justice approach can provide positive results in handling criminal cases, including narcotics cases. The programs emphasize the importance of a restorative approach between the parties involved, which can help to improve understanding and reduce conflict between them.

In addition, the integration of restorative justice in the Dutch criminal justice system has made a positive contribution to increasing satisfaction and trust in the legal system. These measures reflect the importance of strengthening the criminal justice system with an approach oriented towards the restoration and fulfillment of justice. Therefore, Indonesia can consider adopting several aspects of the Dutch experience in applying restorative justice in handling narcotics cases, taking into account the context and needs of local communities.

5. United States

5.1 Policies and Laws

In the United States, the restorative justice movement began with the establishment of the Narcotic Treatment Court (Drug Treatment Court/DTC). The trial was first initiated in Miami, Dade County, Florida, in 1989 in response to a significant increase in narcotics cases.[7] This happens because narcotics offenders do not get treatment for their dependence and continue to be involved in the justice system without getting adequate solutions.

A narcotics testing program conducted in 1988 found that as many as 65% of the men arrested were positive for cocaine.[8] However, the relationship between dependence and relapse rates is not well handled by the conventional retributive approach to narcotics cases.[8]

The DTC model has developed and expanded to the extent that it merits being referred to be a “movement” once again.[9] There were 1160 DTCs operating in the US as of May 2004, and over 500 more were in the development phases.[10] Due to its popularity, the DTC model is now widely utilized in other specialized courts, including those for mental health, domestic violence, and driving charges while under the influence of drugs or alcohol (DUI).[11]

As mentioned earlier, there are assessments in certain circles that question whether DTC can be categorized as a restorative justice intervention because there is a deficiency in the third component of the restorative justice triad: the victim.

This argument ignores the relationship between drug addiction and crime, as well as between addiction and dysfunction in the family and social sphere. In addition, this view does not consider that the naming of “victim” often feels inappropriate in the context of cases of drug addiction. This is because there is a thin and vulnerable line separating the victim and the perpetrator: often the perpetrator is also the victim and vice versa.[12]

Narcotics crimes, for example, are often classified as criminal offenses *mala prohibita*, where the government stipulates that the use of certain drugs should be prohibited and considered a violation of criminal law. Thus, the use of illegal drugs is considered to violate the normative values that apply in society and government. An intervention aimed at reducing drug use and addiction, as well as providing treatment to those who have become dependent on the substance, may be seen as an appropriate form of restorative justice sanction.

In this context, it's crucial to remember that restorative justice penalties go beyond simply enhancing the victim-perpetrator relationship. but also seek to repair the “damage” caused by the perpetrator to the social norms and normative values of society as a whole. Thus, although it does not directly involve the victim, DTC can be seen as a form of restorative justice sanction that aims to overcome the negative impact of narcotics addiction on the community and the individuals involved.

5.2 Practical Implementation

The DTC format involves a series of evaluation steps aimed at assessing the needs and conditions of individuals involved in crimes. This evaluation is carried out to determine the most appropriate treatment plan for each offender. This treatment plan consists of up to three different levels or phases. Usually, these phases begin with the detoxification process, where the goal is to cleanse the body of the illicit substances that have been consumed. The next phase involves counseling, both individually and in groups, it seeks to assist criminals in comprehending the underlying reasons behind their actions and creating plans to deal with the issue.

Finally, there are post-treatment programs designed to assist offenders in reintegrating into society after completing treatment programs. These post-treatment programs may include vocational training or other assistance to help offenders rebuild their lives.

During this process, criminals will be continuously tested to determine whether they are still using narcotics or not. In addition, they are also expected to come to court regularly to report their progress and account for their actions before the court. These measures are integral to the rigorous surveillance process implemented in the DTC, which aims to ensure that offenders remain committed to addressing their addiction issues and taking the rehabilitation process seriously. A rigorous understanding of the concept of restorative justice, which is limited to the context of the crime and the victim's experience, often hinders the use of restorative justice principles to deal with cases of 'victimless crimes', such as narcotics "crimes". However, it is estimated that narcotics crimes can also be dealt with with a restorative justice approach as is done in other crime cases. Restorative justice has evolved beyond its initial framework and can be applied in cases involving non-predatory crimes, including cases of drug abuse involving victims, although victims in this context may be unclear.

The DTC program shows similarities with the principles of restorative justice in its more holistic approach to narcotics cases. While it is not always clear what constitutes a program considered restorative justice, the similarities between DTC and the concept of restorative justice allow for the application of restorative justice theory to DTC programs. Therefore, although initially restorative justice was only applied in the context of traditional crimes involving victims, the development of the concept allows for its wider application including in cases of 'victimless crimes'. Along with an increased understanding of the relationship between narcotics abuse and its impact on society, restorative justice can be a more effective alternative in handling narcotics cases.

5.3 Recommendations and Learnings

Lessons from the United States regarding restorative justice in narcotics cases can provide valuable insights for Indonesia. The DTC model used in the United States demonstrates a holistic approach to handling narcotics cases. The evaluation measures carried out in the DTC aim to determine a treatment plan that suits the needs of individuals involved in narcotics crimes. These plans can include a variety of stages, from detoxification to post-treatment programs designed to help the offender reintegrate into society after completing treatment.

During the treatment process, the offender is still tested to ensure the absence of narcotics use and is obliged to appear in court regularly. These measures are an important

part of the strict oversight implemented in the United States Narcotics Court. Although the concept of restorative justice is often associated with cases involving victims, the application of the principles of restorative justice in narcotics cases shows the potential to deal with victimless crimes. This is consistent with how the idea of restorative justice has evolved beyond its original framework and can now be used in situations involving non-predatory offenses like drug misuse. While it is not always clear what constitutes a program considered restorative justice, the similarities between DTC and the concept of restorative justice provide room for the application of restorative justice theory in DTC programs. With a better understanding of the relationship between narcotics abuse and its impact on society, restorative justice can be a more effective alternative in handling narcotics cases in Indonesia. Therefore, learning from the experience of the United States can serve as the basis for the creation of more potent tactics in Indonesian drug-handling instances.

6. Conclusion

Portugal's experience in implementing narcotics decriminalization policies provides important lessons for Indonesia, especially related to the establishment of institutions such as CDT that can evaluate and provide appropriate treatment measures. Although the statistics show a number of users who are successfully directed to treatment, it is worth remembering that statistics alone do not reflect the overall success of the program, as the individual context of each case needs to be carefully considered.

In addition, Portugal's experience also highlights the change in the behavior of narcotics dealers after decriminalization, emphasizing the importance of comprehensive policies involving law enforcement and public health measures. On the other hand, learning from the Netherlands, although not specific to narcotics cases, shows that the integration of restorative justice in the criminal justice system can yield positive results, especially through programs such as HALT and Victim-Perpetrator Mediation that emphasize a restorative approach between the parties involved. Meanwhile, the experience of the United States, especially through the DTC model, shows the potential for restorative justice in handling narcotics cases with a holistic approach. Although this concept is still under development, the similarities between DTC and the principle of restorative justice provide room for the application of this theory in the context of narcotics in Indonesia. Thus, learning from these three countries can be the basis for the development of more effective strategies and policies in handling narcotics cases in Indonesia, by paying attention to the role of law enforcement officials, the community, and the interpretation of the concept of victims in discourse Victimless Crime.

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