

Restorative Justice in Narcotics Crimes Investigations: Implementation, Challenges and Obstacles

Tri Imam Munandar¹, Elizabeth Siregar², Dessy Rakhmawati³, Zulham Adamy⁴

¹Universitas Jambi, Indonesia

²Universitas Jambi, Indonesia

³Universitas Jambi, Indonesia

⁴Universitas Terbuka, Indonesia

*Corresponding Author: imamtri@unja.ac.id

Article History:

Submitted:

23-09-2024

Received:

02-02-2025

Accepted:

18-02-2025

Keywords:

restorative justice;

criminal offenses;

narcotics

Abstract

This article aims to analyze the implementation of Restorative Justice in investigating narcotics crimes in the Jambi Police Jurisdiction and the obstacles encountered. Restorative justice in investigating narcotics crimes in Indonesia is an approach that is gaining more consideration, specifically in the context of handling addicts and victims of narcotics abuse to restore the conditions before the crime occurred, with a focus on rehabilitation and restoration of the relationship between perpetrators and victims (victimless). As empirical juridical research, this article refers to observing the operation of law in society. The findings indicate that the application of Restorative Justice for narcotics offenders must adhere to the predetermined criteria outlined in National Police Regulation (Perkapolri) No. 8 of 2021. However, its implementation faces challenges due to legal interactions among various narcotics regulations. The lack of synchronization in law enforcement efforts against narcotics offenders creates a legal dilemma, which ideally should align justice with the restorative nature of criminal sentencing. The application of Restorative Justice also encounters various technical challenges, including legal, social, and operational obstacles. However, explicit binding regulations regarding narcotics-related issues for implementing Restorative Justice remain unavailable in the existing legislation. Therefore, broader and more effective legal reforms are essential for addressing narcotics crimes through a restorative justice approach.

1. Introduction

Crime is a form of norm-violating behaviour that exists and is inherent in society; one form of crime is narcotics crime.¹ Narcotics crime is an extraordinary crime in the sense of an organized crime that is widespread around the world and can pose a severe threat since it harms the national life system and has a higher impact than other forms of crime. In Indonesia, narcotics abuse has become a kind of way of life, especially among artists, yuppies (young urban professionals), the upper middle class, and others.² The increasing number of narcotics crimes indicates a growing trend over time. The cases revealed by the ranks of the Indonesian National Police are simply an iceberg phenomenon representing only a slight portion of what appears on the surface while the depth is immeasurable.³

¹ Haryadi, Tri Imam Munandar, Aga Anum Prayudi, Upaya Non-Panel Dalam Penanggulangan Penyalahgunaan Narkotika Jenis Ganja di wilayah Hukum Polres Kabupaten Kerinci, *Jurnal Sains Sosio Humaniora* Vol. 5 No. 2 (2021): Volume 5, Nomor 2, Desember 2021. Available from: <https://online-journal.unja.ac.id/JSSH/article/download/16883/12746>.

² Soedjono Dirdsisoworo, *Narkoba dan Peradi* (Jakarta: Sinar Grafika, 2006), p. 249.

³ Francisco Lundu Hesekhel Pasaribu, Keadilan Restoratif Pada Tingkat Penyidikan Bagi Pecandu Narkotika Dan Korban Penyalahgunaan Narkotika, *COURT REVIEW: Jurnal Penelitian Hukum* Vol. 4 No. 03 Mei 2024. p. 14.

Narcotics crimes are no longer committed individually but involve a large group of persons working together, including an organized syndicate with a massive network that operates cleanly and quietly on both the national and international levels. The data from the Criminal Investigation Unit of the National Police Headquarters shows that narcotics cases are the second highest crime after theft, with 15,455 cases in the first semester of 2022.⁴ More specifically, in Jambi, the data from the Jambi Police shows that the number of narcotics abuse (shabu, marijuana, and ecstasy) cases in 4 (four) years is still rampant as illustrated in the following table:

Table 1. Number of Narcotics Crime Cases Jambi Police Ranks, 2020-2023.

No.	Year	Number of Cases
1.	2020	134
2.	2021	112
3.	2022	68
4.	2023	73

Source: *Jambi Police*

The table above shows the average number of cases of narcotics abusers from 2020 to 2023. From the number of cases, not all of the cases are continued to the next stage of legal proceedings because narcotics abusers adhere to 2 (two) different perspectives between perpetrators of crimes and victims of crime. Narcotics crimes adhere to the double track system sanctions, namely criminal sanctions and treatment sanctions. In criminal law, there is a tendency to use a double-track system in the sanctions station. It means that criminal sanctions and treatment sanctions are regulated simultaneously.⁵

The double-track system refers to a system of sanctions in criminal law that includes both the type of criminal and treatment sanction.⁶ This system is closely related to narcotics crimes because the Narcotics Law raises the possibility for criminal sanctions and treatment sanctions. The development of the concept of restorative justice in narcotics crimes is currently encompasses not only individuals struggling with addiction to narcotics but also those who misuse these substances. The shift highlights a growing recognition of the complexities surrounding drug-related issues and emphasizes rehabilitation and support for all individuals affected by narcotics, whether they are addicts or abusers.

Restorative Justice is a legal concept that differs from conventional punishment methods. Rather than focusing solely on punishment, it aims to restore the circumstances that led to a conflict. The primary goal is to promote reconciliation and peace, extending beyond

⁴ Pusiknas Bareskrim Polri, "Narkoba, Kejahatan Tertinggi Kedua di Indonesia," 2023. https://pusiknas.polri.go.id/detail_artikel/narkoba_kejahatan_tertinggi_kedua_di_indonesia.

⁵ Sudarto, *Kapita Selekta Hukum Pidana* (Bandung: Alumni, 1986).

⁶ Sholehuddin, *Sistem Sanksi dalam Hukum Pidana* (Jakarta: PT Rajagrafindo Persada, 2007).

formal court proceedings.⁷ At the conceptual level, Restorative Justice is a process that involves all parties in a criminal act to find a way to recover the impact of a criminal act and choose a mechanism to overcome the criminal act. This process plays a role in reducing the cost of the case. This concept is in line with the principles of Criminal Procedure Law, namely Quick, Simple, and Low Cost.⁸

Restorative Justice emerges in response to the retributive justice approach and the criminal law system, which is considered less satisfying to the community's sense of justice. Hence, the concept of Restorative Justice has emerged as a new idea in contemporary criminal law thought.⁹ In this modern era, the concept of Restorative Justice is used as the method to resolve many criminal offenses, including narcotics crime. It is in line with the idea from Professor Hafrida, who stated that "Perpetrators of narcotics users should be considered victims of criminal acts in the current positive law".¹⁰

Article 54 of Act Number 35 of 2009 concerning Narcotics stated: "Narcotics addicts and victims of narcotics abuse are obliged to undergo medical rehabilitation and social rehabilitation, and judges in deciding cases of narcotics abusers are obliged to pay attention to the provisions of Article 127 Paragraph (2) and Paragraph (3)". This provision raises the possibility that perpetrators of narcotics abuse are not only given criminal sanctions but can also be given sanctions in the form of rehabilitation.

Additionally, many people have concerns about the formal law enforcement procedures. Formal law enforcement practices prioritize procedures to ensure legality and justice, often placing procedures above justice itself.¹¹ In reality, the purpose of the law is not only to ensure justice but also to provide certainty and usefulness. As Jeremy Bentham stated, "The law seeks to ensure the greatest happiness for the largest number of human beings as much as possible". In essence, the essential purpose of the benefits of law is to produce the greatest pleasure and happiness for the largest number of people.¹²

In general, the restorative justice method involves a meeting between the perpetrator and the victim, who then reach an agreement on forgiveness and the amount of money the victim must pay to restore the original situation. However, the way to apply restorative justice

⁷ Ridwan Arifin *et al*, Striking A Balance: Navigating Peace, Justice, And Restorative Justice in Indonesian Prosecutorial Process, *The Prosecutor Law Review*, Vol 1 No 3 (2023), p. 79. Link Web: <https://prolev.kejaksaan.go.id/kejaksaan/article/view/25>.

⁸ Muhammad Fatahillah Akbar, Pembaharuan Keadilan Restoratif dalam Sistem Peradilan Pidana Indonesia, *Jurnal Masalah-Masalah Hukum*, Volume 51 Nomor 2 (2022), p. 200. link Web: <https://ejournal.undip.ac.id/index.php/mmh/article/view/40526>.

⁹ Dean Rizqullah Risdaryanto, Restorative Justice Bagi Pelaku Penyalahgunaan Narkotika. Fakultas Hukum Universitas Airlangga, 2022, Available from: <https://fh.unair.ac.id/restorative-justice-bagipelaku-penyalahgunaan-narkotika>.

¹⁰ Hafrida, Kebijakan Hukum Tindak Pidana Terhadap Pengguna Narkotika Sebagai Korban Bukan Pelaku Tindak Pidana: Studi Lapangan Daerah Jambi. *PJIH* Volume 3 Nomor 1 Tahun 2016. Dengan situs: <http://jurnal.unpad.ac.id/pjih/article/view/9337>.

¹¹ Haposan Sahala Raja Sinaga, Penerapan restorative Justice Dalam Perkara Narkotika di Indonesia, *Jurnal Hukum Lex Generalis*, Vol 2 No. 7 (Juli 2021). Link Web: <https://ojs.rewangrencang.com/index.php/JHLG/article/view/80>.

¹² Dino Rizka Afdhali dan Taufiqurrohman Syahuri, Idealitas Penegakkan Hukum Ditinjau Dari Perspektif Teori Tujuan Hukum, *Collegium Studiosum Journal*, Vol. 6 No. 2, Desember 2023. Cited from: <https://ejournal.stih-awanglong.ac.id/index.php/csj/article/view/1078>.

to the perpetrators of narcotics abuse crimes which is a victimless crime remains uncertain. Restorative justice is a method for resolving conflicts that respects and holds the perpetrator accountable by clarifying that their actions are unjustifiable. Based on the description provided, there are two main problem formulations to consider: First, how is restorative justice applied in investigating narcotics crimes in the Jambi Police jurisdiction? Second, what are the obstacles to applying restorative justice in narcotic crime investigations?

The primary goal of criminal law is to prevent criminal acts by enforcing legal norms for the benefit of society and to socialize convicts by guiding them to become good and useful citizens in society. Thus, it can be inferred that Restorative Justice differs significantly from Retributive Justice. Kathleen Daly stated that there are at least three crucial differences between Retributive Justice and Restorative Justice, namely: (1) Restorative Justice focuses on repairing the damage caused by the crime, whereas Retributive Justice focuses on punishing the offender; (2) Restorative Justice is characterized by dialogue and negotiation between the parties, whereas Retributive Justice is characterized by an adversarial relationship between the parties; and (3) Restorative Justice assumes that community members or organizations take a more active role, whereas for Retributive Justice, the 'community' is represented by the state.¹³

Researchers are interested in exploring the legal issues related to narcotics crimes and the concept of Restorative Justice. Several studies on these issues have been analysed in the form of scientific journals. In 2021, the author focuses on examining the efforts to overcome the penal and non-penal of narcotics crimes. Additionally, the author has also conducted a study at the Muaro Jambi Police Unit regarding the factors that contribute to the suboptimal implementation of Restorative Justice. The findings of this research have been published in the 2024 edition of the Pampas Criminal Law Journal.¹⁴

In 2024, several studies discussed Restorative Justice, including research conducted by Fedi Arif Rakhman, entitled *Penerapan Keadilan Restoratif dalam Penanganan Penyalahguna & Pecandu Narkotika*. This research focused on the obstacles in implementing Restorative Justice for Narcotics Addicts and Abusers.¹⁵ From the previous research, the author conclude that the legal policy concerning restorative justice in narcotics crimes is the novelty of the author's study. Not all criminal acts can be addressed through Restorative Justice. Nevertheless, the author examines how Restorative Justice is applied to narcotics crimes, which are classified as extraordinary crimes and are generally considered victimless.

2. Methods

This study employs empirical juridical research methods. Empirical research is conducted to observe how the law performs within society (examining the law in a real sense).¹⁶ In this study, the researcher investigates and analyses the application of restorative

¹³ Daly K, *Restorative Versus Retributive Justice*. Crim Justice Matters. 2005.

¹⁴ Alifa Zahrani putri, Tri Imam Munandar dan Haryadi, Faktor-Faktor yang Mempengaruhi Belum Optimalnya Pelaksanaan Restorative Justice di Polres Muaro Jambi, *Pampas Journal of Criminal Law*, Vol. 5 No. 3 Edisi Oktober (2024), link web: <https://online-journal.unja.ac.id/Pampas/article/view/36944>.

¹⁵ Fedi Arif Rakhman, Penerapan Keadilan Restoratif dalam Penanganan Penyalahguna & Pecandu Narkotika, *Jurnal Ilmu Hukum, Humaniora dan Politik (JIHHP)*, Vol 4 No. 6 (2024), Citred from: <https://dinastirev.org/JIHHP/article/view/2675>.

¹⁶ Irwansyah, *Penelitian Hukum: Pilihan Metode dan Praktik Penulisan Artikel* (Yogyakarta: Mirra, 2020).

justice in the investigation of narcotics crimes, as well as the obstacles to its use in the Jambi Police Jurisdiction. The research approach is descriptive. Descriptive research aims to solve research problems through concrete data, which is then analysed and interpreted.¹⁷ Descriptive analytical research is conducted by pointing out empirical phenomena in the field through normative studies.

3. Results and Discussion

3.1. The Application of Restorative Justice in Investigating the Narcotics Crimes

In relation to the handling of narcotics crimes, the Indonesian National Police (Polri) is a law enforcer who acts as an investigator. In carrying out their duties as investigators, Polri have the authority regulated in Article 16 paragraph (1) of Act Number 2 of 2002 concerning the Indonesian National Police. The concept of Restorative Justice focuses on restoring the relationship between the perpetrator and the victim, aiming to achieve peace between both parties.

The application of restorative justice is identical to criminal acts committed by children as an implementation of Act Number 11 of 2012 concerning the Juvenile Criminal Justice System which regulates Diversion as a restoration of circumstances. Currently, law enforcement agencies in Indonesia have implemented restorative justice in resolving criminal cases, including narcotics crime cases. A significant portion of criminal cases in Indonesia involve narcotics crimes, contributing to the problem of overcrowding in prisons. As a result of this overcrowding problem, inmate coaching in prison does not run optimally. Even with the complexity of the problems in prisons, it results in the deterioration of the health conditions of inmates and affects the psychological atmosphere of the inmates so that it is easy for conflicts to occur.

Restorative justice is considered more effective in answering various legal problems faced, one of which is the problem of overcapacity in correctional institutions and as a transition from criminal objectives that are retributive to restorative. As an implementation of Restorative Justice, the Restorative Justice approach is regulated at every level of the criminal justice process starting from the police, the prosecutor's office and the Supreme Court as the front line in deciding a criminal case. Some of these rules are as follows:

1. The National Police of the Republic of Indonesia Regulation Number 8 of 2021 concerning the Handling of Criminal Acts based on Restorative Justice;
2. The Prosecutor of the Republic of Indonesia Regulation Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice; and
3. The Supreme Court of the Republic of Indonesia Regulation Number 1 of 2024 concerning Guidelines for Judging Criminal Cases Based on Restorative Justice.

Restorative Justice as an alternative to resolving criminal cases focuses on criminalization which is transformed into a dialogue and mediation process involving the perpetrator, the victim, the perpetrator/victim's family, and other related parties.¹⁸ However,

¹⁷ FK Stage and K Manning, *Research in the College Context: Approaches and Methods* (New York: Pearson, 2003).

¹⁸ M. Khoirul Anam and Pudji astute, Penerapan Restorative Justice Dalam Perkara Tindak Pidana Narkotika Oleh Badan Narkotika Nasional Kota Mojokerto, Progam studi S1 Ilmu Hukum, Fakultas Ilmu Sosial dan Hukum Universitas Negeri Surabaya. Cited From: <https://ejournal.unesa.ac.id/index.php/novum/article/view/57907/45352>.

it is different from narcotics crimes which are victimless crimes. Narcotics abusers are perpetrators of criminal acts as well as victims of criminal acts. The application of restorative justice in narcotic cases at the investigative level requires a very careful approach, especially considering the health and criminal aspects involved. The health aspect is seen from the dependence on narcotics so that it is categorized as a narcotics addict and the criminal aspect is carried out based on the type of qualifications such as self-abusers and dealers. However, as views on the handling of crimes change from retributive to restorative, Restorative Justice can provide a framework to address this issue in a more holistic and responsive manner to the impact that occurs.

In this case, police investigators in implementing restorative justice for narcotics abusers still refer to the National Police of the Republic of Indonesia Regulation Number 8 of 2021 concerning the Handling of Criminal Acts based on Restorative Justice and the Supreme Court Circular Letter Number 4 of 2010 concerning the Placement of Abuse, Victims of Abuse and Narcotics Addicts into Medical Rehabilitation and Social Rehabilitation Institutions.

The results of the research are in line with what was conveyed by the Jambi Police Narcotics investigator, Brigadier Kurniawan Lovendra. He stated that "Restorative justice for perpetrators of narcotics abuse must be carried out by referring to the criteria that have been determined based on the National Police Chief Regulation No. 8 of 2021 at the request of the family concerned, followed by an assessment of the perpetrator."¹⁹ Furthermore, this table shows the number of case data for handling through restorative justice for Narcotics Crimes in 2023:

Table 2. Restorative Justice Data from January to November 2023

NO	Report Number	PROBLEMS	COMPLETION (SP3 OR OTHER)	SOLUTION
1	LP / A - 36 / VII / 2023 / SPKT POLRESTA JAMBI, July 22, 2023	ABUSE OF SHABU NARCOTICS	RESTORATIVE JUSTICE (SP3)	REHABILITATION
2	LP/A- 56 / IX / 2023 / SPKT. SAT RESNARKOBA / POLRESTA JAMBI / POLDA JAMBI, September 06, 2023	ABUSE OF SHABU NARCOTICS	RESTORATIVE JUSTICE (SP3)	REHABILITATION
3	LP/A- 66 / X / 2023 / SPKT. SAT RESNARKOBA / POLRESTA JAMBI / POLDA JAMBI October 12, 2023	ABUSE OF SHABU NARCOTICS	RESTORATIVE JUSTICE (SP3)	REHABILITATION
4	LP/A- 67 / X / 2023 / SPKT. SAT RESNARKOBA / POLRESTA JAMBI	ABUSE OF SHABU NARCOTICS	RESTORATIVE JUSTICE (SP3)	REHABILITATION

¹⁹ Interview result with Brigadier Kurniawan Lovendra, Assistant Investigator of the Narcotics Investigation Jambi Police Unit (*Penyidik Pembantu Satresnaroba Polresta Jambi*), on July 19, 2024.

NO	Report Number	PROBLEMS	COMPLETION (SP3 OR OTHER)	SOLUTION
	/ POLDA JAMBI October 12, 2023			

Source: *Jambi Police Narcotics Investigation Unit*

Based on the data above, there are 4 (four) cases of narcotic abuse between January and November 2023 that were resolved through Restorative Justice with rehabilitation efforts. It shows that the application of restorative justice for the investigation of narcotics crimes in the Jambi Police jurisdiction has been carried out as an effort to realize restorative justice for victims of abuse. Referring to Article 5 (General requirements) and Article 9 paragraph (1) of the National Police Chief Regulation 8/2021, the general requirements (Material) and special requirements in handling Criminal Acts based on Restorative Justice are as follows:

Article 5:

- a. Does not cause unrest and/or rejection from the community
- b. Does not affect on social conflicts
- c. Does not have the potential to divide the nation
- d. Not radical and separatist
- e. Not a repeat of a criminal act based on a court decision
- f. Not Terrorism Crimes, Crimes Against State Security, Corruption Crimes and Crimes Against People's Lives.

Article 9 Paragraph (1):

Special requirements for Narcotic Crimes as referred to in Article 7 letter b, include:

- a. Narcotic addicts and victims of narcotic abuse who apply for rehabilitation;
- b. At the time of being caught:
 1. Found evidence of drugs use (one) day with the classification of narcotics and psychotropic drugs in accordance with the provisions of the legislation; and
 2. No evidence of Narcotic Crimes was found, but the results of the urine test showed positive for narcotics;
- c. Not involved in the network of Narcotic Crimes, dealers and/or drug lords;
- d. The assessments process has been carried out by an integrated assessment team; and
- e. The perpetrator is willing to cooperate with National Police Investigators to conduct a follow-up investigation.

Referring to the article as described above, the important thing in the restorative justice process in the investigation of narcotics crimes as conveyed by the Jambi Police Guidance and Operations Section, Superintendent of Police Two (Ipda) Reny Widya which state "The restorative justice process must be preceded by a letter of application made by the perpetrator, the victim, the perpetrator's family, the victim's family, or other parties related to the cause. Without a letter, an assessment cannot be carried out against the perpetrator of narcotics abusers."²⁰

²⁰ Interview result with Ipda Reny Widya, Jambi Police Guidance and Operations Section (*Binopsnal Polresta Jambi*), on July 19, 2024.

Rehabilitating narcotics abuse would be better than imprisoning it. If narcotic abuse is rehabilitated, then the probability of recovery from addiction increases, and eventually, they will no longer consume illicit items. Since Indonesia's legal system adheres to a double track penal system, that is, when narcotics abuse is criminally sentenced, the punishment is carried out through rehabilitation outside the prison. Furthermore, the rehabilitation for narcotic crimes becomes urgent as "the condition of society continues to evolve, compelling the law to adapt accordingly to meet the expectations of the community and preserve the sense of justice and legal certainty that has been desired".²¹

The restorative justice concept allows the perpetrators of narcotics abuse not to undergo a trial in court but to be immediately given treatment through rehabilitation. Through the rehabilitation process, narcotics addicts and abusers can oftentimes be cured and return to a normal life. This process is considered as the implementation of restorative justice. The application of restorative justice at all levels of the criminal justice system, especially in the case of narcotics crimes, as an effort to protect narcotics abusers as victims of abuse, in line with what was conveyed by Satjipto Rahardjo which stated "Legal protection is to provide protection for human rights that are harmed by others and that protection is given to the community so that they can enjoy all the rights provided by the law".²²

However, in its implementation, Restorative Justice in narcotics crimes investigation is highly likely to be hindered by legal interactions related to several regulations on narcotics. Upon analysis, the current Narcotics Law is not in line with the spirit of restorative justice, as it still maintains its repressive nature toward narcotics abusers. The intent of the Narcotics Law should prioritize the broader welfare of society, particularly concerning health services, as outlined in Article 4, Letter A of Act No. 35 of 2009. The inconsistency in law enforcement against narcotics abusers creates a legal dilemma that should align justice with the restorative nature of criminal punishment objectives.

3.2. Obstacles to the Application of Restorative Justice in Investigating Narcotics Crimes

There are several obstacles in the application of restorative justice, especially narcotics crime; one of the examples is the public perception of narcotics crimes themselves. The community often perceived narcotics offenders with a negative stigma. There is an assumption that offenders should be punished severely without considering rehabilitation or recovery. This perception can influence the decision of law enforcement in applying the restorative justice approach. Moreover, Act No. 35/2009 on Narcotics in Indonesia stipulates severe sanctions for narcotics offenders. The nature of narcotics crimes that are considered serious and endanger society makes the law emphasize prosecution and deterrence. In addition, Indonesia as part of the international community, is bound by various conventions and treaties in narcotics eradication. The pressure to apply harsh laws against narcotics offenders can reduce the possibility of alternative approaches, such as restorative justice. This pressure makes Restorative Justice implementation more difficult, as the restorative justice approach emphasizes recovery.

²¹ Widodo, Prayogi, Hambatan-Hambatan Penerapan Penghentian Penuntutan Perkara Tindak Pidana Berdasarkan Restorative Justice, *Jurnal Hukum Ius Publicum* 4.2 (2023), p 181. Link Web: <https://journal.unilak.ac.id/index.php/Respublica/article/view/10153>.

²² Satjipto Raharjo, *Ilmu Hukum* (Bandung: PT Citra Aditya Bakti, 2000), p.53.

Based on Soerjono Soekanto's theory, there are several factors that can affect law enforcement so that the law enforcement process is hampered, namely the legal factors, law enforcement factors, facilities factors, community factors and cultural factors.²³ The five supporting factors in the settlement of narcotics crimes can also be indicators of obstacles in the settlement of narcotics crime cases using a Restorative justice approach.²⁴

Regarding some of the obstacles constructed by the Jambi Police Narcotics Investigation Unit in the restorative justice implementation, the investigation process has obstacles in practice so that it hinders the Restorative Justice process itself. Reflecting on Soerjono Soekanto's theory, there are at least 2 (two) factors that hinder the law enforcement process at the Jambi Police Narcotics Investigation Unit, namely the factors of facilities and law enforcement (human resources).

The Jambi Police Narcotics Investigator, Brigadier Kurniawan Lovendra explained that the factors of facilities are the priority obstacles to the implementation of restorative justice in the investigation of Narcotics Crimes. The outline was explained by Brigadier Kurniawan Lovendra as follows:

"Facilities are obstacles in the legal process, for example, the Jambi Police Narcotics Investigation Unit does not have a special tool to detect shabu as the authenticity of evidence. This tool is important because the police institution as a phase I law enforcement process plays an important role in collecting the validity of evidence to proceed to the next stage."²⁵

The next obstacle is related to limited human resources, the lack of investigator resources who have special competencies and qualifications. For example, on the law enforcement side, the law enforcers absence as a team in the integrated assessment is not represented by other officers who have the same capabilities and qualities. This shows the obstacle in the law enforcement process because the rules on the implementation of restorative justice which has a limited period of time where recommendations must be issued within 6 (six) days, this affects the implementation of the assessment if there are appointed team members who are obstructed due to other tasks and require rescheduling.

As mentioned before, there are several laws regulating the application of restorative justice, such as the National Police of the Republic of Indonesia Regulation Number 8 of 2021 concerning Handling Crimes based on Restorative Justice, the Prosecutor's Office of the Republic of Indonesia Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice, and the Supreme Court of the Republic of Indonesia Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice. However, the Restorative Justice process is often not regulated in detail in those laws and regulations, especially in the context of narcotics crimes. The absence of a strong legal basis can cause doubts in its application and has the potential to cause legal problems in the future.

²³ Soerjono Soekanto, *Faktor-Faktor yang Mempengaruhi Penegakan Hukum* (Jakarta: RajaGrafindo Persada, 2007), p. 5.

²⁴ Bastianto *et al.*, "Implementasi Kebijakan Restorative Justice System pada Penyalahgunaan Narkotika dan Psicotropika," *Maksigama* 14, no. 1 (2020): 39–48.

²⁵ Brigadir Kurniawan Lovendra (Assistant Investigator of the Jambi Police Narcotics Investigation Unit), interview by author, July 19, 2024.

Therefore, several points of renewal in the new Indonesia Criminal Code (positive law), ratified in 2023, have accommodated the substance of the settlement of criminal acts committed through Restorative Justice. In addition, there is also regulation outside the criminal code, such as Act Number 11 of 2012 concerning the Juvenile Criminal Justice System that accommodates the substance of resolving criminal acts through Restorative Justice, but the implementation remains limited and is not fully integrated into the national criminal law system. The implementation of restorative justice is highly dependent on the willingness and commitment of law enforcers themselves. If law enforcers do not have the strong will to implement the relevant rules, then the rules can be considered ineffective in their implementation.

Empirically, this article does not identify significant technical obstacles in implementing Restorative Justice for narcotics crime investigations. However, explicitly, binding regulations are not available in the legislation related to narcotics in the application of Restorative Justice.

The public stigma views narcotics as a serious crime that must be severely punished rather than resolved through a Restorative Justice approach. The existence of Police Regulation (Perkapolri) Number 8 of 2021 concerning the Handling of Criminal Offenses Based on Restorative Justice serves only as a further procedural mechanism for Restorative Justice, which, in concept, is intended for ordinary crimes rather than extraordinary crimes.

With additional requirements in the regulation, certain narcotics offenses may be addressed under specific criteria, though they are yet strictly binding. Therefore, policy harmonization is highly feasible in the pursuit of Restorative Justice for narcotics crimes. The implementation of Restorative Justice often requires coordination among various institutions, which can be hindered by ineffective communication and time constraints during execution.

4. Conclusions

The implementation of Restorative Justice in narcotics crime investigations within the Polresta Jambi jurisdiction must adhere to Indonesian National Police Regulation Number 8 of 2021 concerning the Handling of Criminal Offenses Based on Restorative Justice. The Restorative Justice process is realized through rehabilitation efforts focused on recovery and reconciliation between victims and offenders (victimless). Restorative Justice is more effective at addressing various legal issues, representing a shift from retributive criminal justice objectives to Restorative Justice. However, the current Narcotics Law is not aligned with the principles of Restorative Justice, as it still maintains its repressive nature toward individuals who abuse narcotics for personal use. It creates a legal dilemma that should ideally balance justice with the restorative goals of criminal sentencing. Furthermore, the implementation of Restorative Justice at the investigative level for narcotics crimes faces several technical challenges, including legal, social, and operational obstacles. However, the key issue here is the absence of explicit binding regulations within existing laws concerning narcotics in the application of Restorative Justice. Public stigma perceives narcotics as a serious crime that must be severely punished rather than addressed through a Restorative Justice approach. Derivative regulations, such as Police Regulations related to the Handling of Criminal Acts Based on Restorative Justice, merely serve as an additional procedural mechanism and are conceptually intended only for minor offenses, not extraordinary crimes. Therefore, broader

and more effective legal reforms are essential for addressing narcotics crimes through a restorative justice approach.

5. Acknowledgments

The author would like to express gratitude to Universitas Jambi for the support and facilities provided throughout the research process. Special thanks go to the Faculty of Law, which contributed valuable resources and academic guidance to the completion of this work.

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