

## Restorative Justice in The Enforcement of Narcotics Crimes in the Jurisdiction of the Badung Police

Kadek Julia Mahadewi<sup>1</sup>, I Made YudhaPradnyana<sup>2</sup>

Universitas Pendidikan Nasional

---

### Article Info

#### Article history:

Accepted: 21 October 2024

Publish: 1 December 2024

---

### Keywords:

Restorative Justice;

Narcotics;

Crime.

---

### Abstrac

*This study was made with the aim of determining the application of restorative justice for narcotics crimes under the jurisdiction of the Badung Police. Restorative justice is sought so that in the criminal act of narcotics addicts can be optimally recovered, in addition to the high prison occupancy, making law enforcement ineffective for narcotics offenders. The problem raised is how effective is the implementation of restorative justice in the act of narcotics financiers in the jurisdiction of the Badung Police? This journal uses empirical research, a legal research approach, primary data sources and data collection techniques using interviews and documents. The results of this study use to measure the effectiveness of this law using 5 factors used, this indicates that Perkap No. 8 of 2021 is still not optimal in handling narcotics crimes in terms of law enforcement factors, sociology of society and legal culture that make it not optimal in implementation.*

---

*This is an open access article under the [Lisensi Creative Commons Atribusi-BerbagiSerupa 4.0 Internasional](https://creativecommons.org/licenses/by-sa/4.0/)*



---

### Corresponding Author:

**Kadek Julia Mahadewi**

Universitas Pendidikan Nasional

Email: [Juliamahadewi@undiknas.ac.id](mailto:Juliamahadewi@undiknas.ac.id)

---

## 1. INTRODUCTION

The existence of *restorative justice* in society is a form of application in the settlement of criminal acts in several aspects of elements in the form of society, victims, and perpetrators to be able to provide justice that can be obtained by all parties. The concept of restorative justice itself adheres to the principle of criminal law as a last resort or *ultimate remedium*, so that law enforcement officials, especially at the police investigation level, can resolve cases without the need to go through a convoluted and long process in a case that can be pursued for restorative justice. Restorative justice itself is the settlement of criminal cases by restoring the state as if there had not been a criminal act or restoration as before.

The concept of restorative justice in the Indonesian National Police itself has become an important understanding for police officers since October 19, 2021, this is because the National Police Chief, Dr. Listyo Sigit Prabowo, has issued National Police Regulation Number 8 of 2021 concerning the Handling of Crimes Based on Restorative Justice, hereinafter referred to as Perkep 2021. Regulation of rules is a main way for law enforcement officials in the National Police to be able to prioritize efforts to resolve with restorative justice methods or concepts that emphasize aspects of restoration or restoration to the original state with a view to justice for each party, namely the perpetrators and especially victims of criminal acts that have occurred.

The enforcement of criminal law itself is regulated in the Criminal Procedure Code or normatively regulated in the Criminal Procedure Code. The criminal procedure law itself is a set of implementation tools to enforce material criminal law, so that the criminal procedure law itself talks about how the process of a person who violates material criminal

law can obtain criminal sanctions through a judge's decision that is *inkracht* and can be implemented.

Restorative justice itself can in principle be applied to all criminal acts but still looking at the level of reprehensibility of the perpetrator for the crime committed, problems arise if the crime committed by the perpetrator results in the victim, namely himself, such as a narcotics addict. The problem of restorative justice against the crime of narcotics users itself has been regulated through the Supreme Court Circular Letter Number 4 of 2010 concerning the placement of addicts and victims of narcotics addiction in medical and social rehabilitation. These legal norms are legal formulations that are considered effective in looking at the legal problem of placing narcotics users or addicts in prisons which are considered ineffective to help perpetrators get rid of narcotics addiction. So that the correctional facility itself does not provide a way out for narcotics addicts to be able to improve themselves.

Comparison of the writing of this journal, looking at the previous article, first, by Armunanto Hutahaeon raised the title *The Implementation of Restorative Justice by the National Police of the Republic of Indonesia to Realize Legal Objectives* focuses more on the application of restorative justice in the implementation of the settlement of investigators or investigators who meet the requirements of the imtrial and basic material of the Regulation of Restorative Justice and many have not been answered. The Criminal Code in the implementation of Restorative Justice is different from the author's writing about the effectiveness of Restorative justice in narcotics cases in the Badung Police Jurisdiction. Second, Ryan ArkiantoTaneo titled *The Application of Restorative in the Settlement of Criminal Cases at the Kupang City Resort Police*, Mr. Ryan's application of restorative justice in the settlement of this case, he sees that the handling of restorative in Kupang is still inaccurate, judging from the content of the Perkap, there is no sense of justice in its application, which is different from the author, looking at the 5 factors that determine the effectiveness of the law, and third, by Isna Veviati, *Restorative Justice on Fraud Crimes*, explained that it describes the theory of legal certainty in conducting an analysis of the implementation of fraud in the Tuban Police based on the Perkap SOP while the author describes the implementation of the legal effectiveness of restorative justice through narcotics crimes in the jurisdiction of the Badung Police area.

Through the description above, it is necessary to conduct a study or study on the settlement of the crime of narcotics use by addicts through the concept of restorative justice, considering that the concept of justice from the criminal justice system in Indonesia itself still provides retributive punishment rather than restorative punishment. The study will be carried out by approaching law enforcement officials at the police level so that it will be associated with Perkap no. 8 of 2021. The above description makes the author raise the title **"Restorative Justice in the Enforcement of Narcotics Crimes in the Jurisdiction of the Badung Police."**

## 2. RESEARCH METHODS

The use of research methods in the elaboration of this journal contains the type of journal research using empirical law which involves field data. The research approach uses the laws and regulations used in reviewing and the source of data there are 2 primary data based on legal rules, here there is the Criminal Code and Perkap No. 8 of 2021 as a reference and secondary data based on the results of interviews that will be processed into discussions. Collection techniques with document and interview techniques, data analysis techniques here are qualitative juridical and the location of the researcher at the Badung Police.

### 3. DISCUSSION

#### Restorative Justice

Historically, the concept of restorative justice itself began with a traditional non-litigation case settlement system in Canada called *victim offender*. The *victim offender* system itself is a solution to legal problems carried out by minor perpetrators, the perpetrator and the victim will be brought together to be able to prepare a proposed punishment which will be considered by the judge whether it will be implemented or the judge has a different opinion. The principle of restorative justice itself arises when a proposed punishment can be discussed between the perpetrator and the victim, where the victim can ask for a restitution while the perpetrator gains an advantage for the perpetrator so that he does not get the punishment he deserves.

Problem solving in the *victim offender* system itself provides a better level of satisfaction for each litigant compared to the traditional judicial settlement process. Higher satisfaction for the perpetrator and the victim himself is due to the principle of *a win-win solution* for each party, especially seeing the condition of the perpetrator who is still a minor who can eliminate the childhood to be even better. Restorative justice itself basically has a flexible nature in its application, this means that there are no rigid rules or provisions for restorative justice because it is intertwined with the middle point between the perpetrator and the victim. Restorative justice itself is a settlement based on the perspectives and views of the parties in seeing the problems that occur.

Restorative justice itself has developed well and rapidly as for the countries that apply it, such as America, New Zealand, the United Kingdom, Europe and the Canad. Etymologically, *restorative* justice itself was introduced by Albert Eglas who stated simply that restorative justice is a restoration or restitution approach to settlement in a retributive and rehabilitative way. When viewed from the development of law in Indonesia, the application of the concept of restorative justice itself has actually grown on the norms of customary law with values that have developed in Indonesia. As for its development in Asia, restorative justice is present to provide opportunities for child offenders not to be severely sanctioned.

Restorative justice itself is a model for resolving a criminal case by relying on efforts to restore the situation of the victim, perpetrator and community. The existence of this situation itself relies on the participation of these parties so that a guarantor is realized for the non-recurrence of criminal behavior that has occurred. Based on this, restorative justice itself rests on the restoration of the original situation of each party.

The handling of a criminal case in the hope of justice created through restorative justice itself should not actually produce social conflicts afterwards. Restorative justice itself can actually be carried out with the consent of the parties involved in the case. Thus, restorative justice aims to be able to fulfill the rights of each party, especially to the victim

#### **Obstacles to the Implementation of Restorative Justice for Narcotics Users in the Jurisdiction of the Badung Police Based on Police Regulation Number 8 of 2021**

The fulfillment of the state of affairs is expected through the implementation of Restorative itself is a way or method of resolving a criminal case that relies on changing the penal code which previously only punished the perpetrator for the crime he committed into the settlement of the crime by providing justice for all parties, especially the justice that is really needed by a victim. If in looking at a criminal act, the perpetrator, victim, or the community can pursue justice in an integrated and diligent way so that punishment can be avoided. Restorative justice itself heeded the perpetrator as the main object to be able to restore the situation in a retributive way, but real recovery to the victim and the community itself is the main object.

The reality of the implementation of the concept of restorative justice itself has been enforced in the Badung Police since 2022 guided by the 2022 Perkap. The restorative justice is carried out in the narcotics task force which is a structural part of the Police Department located under the Chief of Police with the main task and function to carry out investigations and investigations into the crime of narcotics abuse in accordance with applicable regulations. Satresnarkoba itself, in addition to acting to carry out investigations and investigations, also provides coaching, socialization, and counseling to the community and victims as a form of prevention and rehabilitation of drug users. An example of a case that has been handled by the Badung Police Narcotics Task Force is the criminal act of abuse of illegal drugs or narcotics by two suspects in the form of marijuana weighing 2.2 grams, while after that a urine test was carried out which showed a positive test result for marijuana users.

The case handled by the Narcotics Task Force itself involving the two suspects was then carried out in restorative justice methods or approaches. The restorative justice settlement itself was chosen by the Badung Police because the represence of the perpetrator of drug abuse only has an effect on himself so that it does not result in victims other than himself. The perpetrator himself also did not act as a dealer, courier, or in a narcotics network. Referring to the Perkap itself has become one of the policies of the Indonesian National Police so that law enforcement against criminal cases can be oriented to prioritize rights so that the previous situation can be restored in a fair way for all parties. Restorative justice is raised in the handling of criminal cases at the police level because there is a view and understanding that the Indonesian National Police must be able to provide fair services to the community by providing fair solutions to the needs of victims who are actually needed.

Research that has been carried out shows that there are restorative handlers that are used in the accuracy of handling cases of narcotics offenses that need to meet several standards. This statement was obtained based on an interview conducted by IPDA Kadir Surahman, S.H who is the Head of the Badung Police Narcotics Task Force on November 1, 2023. The standards in question include:

- a. Applications submitted by the families of the perpetrators of criminal acts;
- b. The fulfillment of material, formal, and special requirements from the delik in the violated criminal acts, in this case fulfilling the narcotics crime in accordance with the 2021 Perkep;
- c. Integrated assessment

Based on the above standards, the application of restorative justice can be carried out for the settlement of criminal cases that occur. The standard regarding restorative justice can be applied for by perpetrators of drug abuse crimes as users more easily because it does not involve the consent of a victim.

The criminal justice system that has developed in Indonesia itself does not fully reflect the application of the principles of restorative justice as a whole, so it is not a question if in its application there are often problems. The failure to implement restorative justice as a whole itself can be seen from the roots, namely law enforcement problems that have become problems for law enforcement officials, including weak independence, low integrity, fragile social relations, and undynamic legal growth.

If it is recalled about the crime of drug abuse itself, in fact, the standards for the fulfillment of offenses against a user or dealer are limited by the number of findings on narcotics from the perpetrators of crimes. So in addition to the truth about how a person can be declared a drug user or addict, it is necessary to see the amount of narcotics he controls. Restorative justice itself needs to look at this because of the nature of the law that must be sorted out about the classification of a narcotics abuser. Restorative justice through

article 54 of Law 35 of 2009 if we look at drug addicts here have the obligation to carry out social and medical rehabilitation

The problem regarding the provision in the form of a gram weight limit from narcotics that was found by itself related to the settlement of drug abuse criminal cases is supported by the statement of IPDA Kadir Surahman based on an interview conducted by the researcher, IPDA Kadir Surahman, S.H stated that "the implementation of Restorative Justice in the jurisdiction of the Badung Police also pays attention to Article 9 of Perkap Police Regulation Number 8 of 2021, Where in article 9 letter b there is a point that states that drug evidence is found with the use of 1 (one) day. The gramation standard of the evidence has been determined, and the implementation of Restorative Justice in the crime of Narcotics refers to the Supreme Court Circular Letter Number 4 of 2010."

Based on the statement from Bripka Gede Muliawan S.H through an interview conducted, it was found that there are several other requirements to be able to carry out a restorative justice process against drug abuse, including:

- a. Perpetrators of narcotics abuse (users/addicts) want to be rehabilitated;
- b. If caught, there is evidence in the form of a dose of use for 1 day or no evidence is found but in the urine test it is declared positive for narcotics users;
- c. Have no relationship or affiliation with narcotics networks and/or dealers;
- d. The integrated assessment team has conducted an assessment with the cooperation of the perpetrators of criminal acts

The implementation of solving the problem of drug abuse criminal cases at the Badung Police Narcotics Task Force itself is not always smooth without obstacles. Obstacles in the implementation and application of restorative justice in the crime of drug abuse itself can be analyzed with the effectiveness theory approach conveyed by Soerjono Soekanto including:

a. Law Enforcement

The law enforcement factor itself will always be related to the law enforcement officials who carry out their duties and functions. law enforcement factors related to Badung Police investigators in developing investigations into drug abuse crimes. The police in this case need to be able to identify drug abuse crimes that are increasingly widespread and organized so that the problem can be solved as well as possible. The law enforcement factor itself is related to how investigators can study the problem as well as possible and be careful.

This problem is supported by a statement from Ipda Kadir Surahman, S.H. who stated that based on interviews that have been conducted in the form of "The lack of special education obtained by Badung Police Satresnarkoba investigators is one of the factors hindering the realization of Restorative Justice in Narcotics crimes in accordance with Perkep No. 8 of 2002". This information is in accordance with the problems that are often faced in law enforcement where law enforcement officials have the competence to analyze a problem poorly. The problem is related to how the police must behave in determining the processes for resolving a criminal act. The lack of knowledge related to restorative justice as one of the processes for resolving criminal acts is a clear obstacle within the Police.

b. Society and Culture

Community and cultural factors themselves are related to how the behavior of a perpetrator of drug abuse crimes hinders the process of implementing restorative justice by the Badung Police Narcotics Task Force. These obstacles are related to the information from the perpetrators of drug abuse crimes that do not contain honesty and truth, so that it will be difficult for investigators to conclude the right decision in resolving the crime of drug abuse.

This obstacle is in accordance with the information provided by Ipda Kadir Surahman, S.H which stated that "Many perpetrators did not provide true information and dishonesty during the investigation process of narcotics crimes which caused the implementation of Restorative Justice in narcotics crimes in the jurisdiction of the Badung Police. Perpetrators who are not abusers may use modus operandi aimed at obtaining improper criminal provisions". These obstacles will make it difficult for investigators to analyze the problems faced in this case are drug abuse crimes. This dishonesty can result in case settlement options using the restorative justice approach cannot be implemented properly.

Investigators in this case need to be more careful in drawing information from perpetrators of drug abuse crimes. Investigation needs to be carried out with caution and effective techniques so that the true truth so that the resolution of criminal acts with a restorative justice approach can be carried out. Law enforcement itself does not only focus on the path through written rules, but also relates to the authority of law enforcement officials and law enforcement agencies. In addition to this, restorative justice itself needs to be supported by a legal culture in society that can encourage the implementation of restorative justice as thoroughly and as well as possible.

#### 4. CONCLUSION

The above description, so that a conclusion was obtained in the form of a drug crime in solving it through restorative justice itself, has actually been carried out by the Badung Police Narcotics Task Force. The settlement through the restorative justice consecration itself is carried out by the Badung Police by paying attention to the relevant parties, namely the perpetrators, victims, and the community. The implementation of settlement with the concept of restorative justice is not without obstacles, the obstacles experienced by the Badung Police Narcotics Task Force are influenced by law enforcement, community, and cultural factors. The law enforcement factor is related to the ability of law enforcement, in this case, the investigating police from the Badung Police Narcotics Task Force who lack a good understanding in analyzing cases based on restorative justice, so that it will hinder the completion of the criminal process and this will have an impact on the abuse of narcotics, the application of which is restorative justice. Community and cultural factors related to perpetrators who often provide information that is not in accordance with reality and contrary to reality, it will make it difficult for investigators to assess a problem so that it can be solved with restorative justice methods.

#### 5. BIBLIOGRAPHY

##### Book

Sofyan, A. M., & Azisa, N. *Indonesian Criminal Law*. (Jakarta, Prenada Media, 2023).

Wiyono, R. *The Juvenile Criminal Justice System in Indonesia*. (Jakarta, Sinar Grafika, 2016)

##### Journal

Arief, H., & Ambarsari, N. "Application of Restorative Justice Principles in the Criminal Justice System in Indonesia." *Al'Adl Journal* 10, No. 2 (2018): 176.

Antari, P. E. D. (2021). "Fulfillment of the Rights of Children Experiencing Restorative Justice-Based Sexual Violence in the Tenganan Pegriingsingan Community, Karangasem, Bali". *Journal of HAM*, 12(1), (2023):75.

Bermuli, A., Salim, A., & Timboga, Y. T. "The Application of Restorative Justice to Narcotics Addicts and Victims of Narcotics Abusers Based on Article 9 of PERPOL No. 8 of 2021." *PAULUS Legal Research* (2023): 5

- Edyanti, N." Restorative Justice to Resolve Cases of Children Facing the Law." *Journal of Police Science* 11, No. 3 (2017): 41.
- Fatoni, K., & Wibawa, I. "Handling Narcotics Crimes Based on Restorative Justice at the Directorate of Narcotics Investigation of the Central Java Police." *Journal of Law Research, University of Gresik* 12 (2023): 888–902
- Hasnuri. "Restorative Justice for Children of Murder Perpetrators in an Islamic Criminal Perspective." *Journal of Adjudication : Journal of Legal Sciences* 2, No. 1 (2018): 55–56
- Hutahaean, Armunanto, " *The Implementation of Restorative Justice by the National Police of the Republic of Indonesia to Realize Legal Objectives*". *Journal of Tora Law: Law to Regulate Society*, 2.No 4 (2022) : 306
- Jainah, Z. O., & Suhery. "Analysis of the Handling of Narcotics Crimes Through Restorative Justice Based on Police Regulation Number 8 of 2021 (Study on the Metro Police Drug Investigation Unit)". *Journal of Education and Counseling* 4, No. 4 (2022): 1051.
- Lawalata, J. H., Alfaromona Sumarez Titahelu, J., & Latupeirissa, J. E. "Restorative Justice Approach in Resolving Narcotics Crime Cases at the Investigation Stage. *TATOHI*", *Journal of Law* 2, No. 1 (2022): 98.
- Setiadi, E., & Kristian. *Integrated Criminal Justice System and Law Enforcement System in Indonesia*. (Kencana Prenamedia Group, 2017), 52.
- Satria, H. "Restorative Justice: A New Paradigm of Criminal Justice." *Journal of Legal Media* 25, No. 1 (2018): 113.
- Satria, H. "Restorative Justice: A New Paradigm of Criminal Justice." *Journal of Legal Media* 25, No. 1 (2018): 113.
- Santoso, W. "Restorative Justice in the Criminal System in Indonesia." *Yusthima Journal* 3, No. 1 (2023): 15
- Putu, D., & Widiatmika, H. "The Implementation of Perpol Number 8 of 2021 concerning Handling of Crimes Based on Restorative Justice at the Directorate of General Criminal Investigation of the Bali Police." *IJOLARES: Indonesian Journal of Law Research* 1, No. 1 (2023): 3
- Ryan Arkianto Taneo, Ryaan, "The Implementation of Restorative Justice in Criminal Cases at the Kupang Resort Police". *Online law journal* 1 no.7 (2022); 1907
- Tambir, I. M. "Restorative Justice Approach in Resolving Crimes at the Investigation Level." *Udayana Master Law Journal* 8, No. 4 (2019): 549.
- Vevianti, Isna, "Restorative Justice in Fraud Crimes", *Jurnal Kerta Semaya* 11. No 9 (2023); Unrated 21074

### **Laws and Regulations**

#### **Criminal Code**

Law Number 35 of 2009 concerning Narcotics (Statute Book of Indonesia Year 2009: Number 143)

National Police Regulation Number 8 of 2021 concerning the Handling of Crimes based on Restorative Justice (State Gazette of 2021 Number 947).