


Optimizing a Humanistic Approach in Sentencing Drug Offenders in Indonesia

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Article Info	ABSTRACT
<p>Keywords: Humanistic Approach, Sentencing, Drug Abuse, Rehabilitation, Double Track System</p>	<p>Drug abuse in Indonesia continues to increase with a prevalence of 1.73% of the population, while sentencing policies still dominated by imprisonment have caused overcrowding in correctional institutions reaching 187% of capacity. This study aims to analyze the optimization of humanistic approaches in sentencing drug abusers and formulate strategies to strengthen its implementation. The research method used is normative legal research with statutory, conceptual, and case approaches. Legal materials used include primary legal materials consisting of legislation and court decisions, as well as secondary legal materials comprising scientific literature and previous research findings. The results show that the humanistic approach has a normative foundation through the double track system in Law Number 35 of 2009 concerning Narcotics, but its implementation is still constrained by legal structure factors including suboptimal performance of the Integrated Assessment Team, legal substance factors including regulatory inconsistencies, and legal culture factors including the persistence of retributive paradigms. Optimization strategies can be implemented through reconstruction of sentencing policies requiring rehabilitation for abusers, strengthening integrated assessment mechanisms, increasing rehabilitation institution capacity, and transforming law enforcement paradigms toward rehabilitative approaches. This research concludes that optimizing humanistic approaches requires synergy between legal substance reform, institutional strengthening, and legal culture transformation.</p>
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INTRODUCTION

Drug abuse in Indonesia remains a serious problem that threatens the younger generation and social stability. Based on the results of the 2023 drug abuse prevalence survey conducted by the National Narcotics Agency (BNN) in collaboration with the National Research and Innovation Agency (BRIN) and the Central Statistics Agency (BPS), the prevalence rate of drug abuse in Indonesia reached 1.73 percent, equivalent to 3.3 million Indonesians aged 15-64 years. Although this figure has decreased from 1.95 percent in 2021, it remains alarming considering that most drug abusers are in the productive age group. This situation is exacerbated by the overcrowding of correctional institutions. As of October 2024, the number of inmates in prisons and detention centers reached 273,755, with a capacity of only around

146,000, of which more than 123,000 were prisoners convicted of drug-related crimes. Data from the Directorate General of Corrections in 2023 also shows that around 60 percent of prison inmates are convicted of drug-related crimes, and 80 percent of them are users, not dealers or traffickers. This reality shows that the punitive approach that has been applied to drug abusers has not yielded optimal results. In fact, it has created new problems in the form of prison overcrowding, which has led to a decline in the quality of inmate rehabilitation.

Various studies have been conducted to analyze the criminalization policy against drug abusers in Indonesia. Studies on the implementation of rehabilitation as an alternative to criminalization show that Law Number 35 of 2009 concerning Narcotics actually mandates medical and social rehabilitation for drug addicts and abusers as stipulated in Articles 54 and 55. This provision is reinforced by Supreme Court Circular Letter No. 4 of 2010, which places drug users as victims who need treatment, not merely punishment. Research related to restorative justice in drug cases is also growing rapidly, where this approach is considered capable of providing a more balanced solution between the rehabilitation of perpetrators and the protection of society. Studies on the double track system in narcotics sentencing show that this system allows judges to impose criminal sanctions and rehabilitation measures simultaneously. Meanwhile, research comparing retributive and restorative approaches to criminal justice confirms that restorative approaches that prioritize rehabilitation and social reintegration are more effective than retributive approaches that focus solely on punishment.

However, previous studies still tend to discuss rehabilitation and restorative justice separately without integrating them into a comprehensive humanistic approach. Most studies also analyze the normative aspects of legislation without paying adequate attention to the humanity of drug abusers as individuals in need of rehabilitation. In addition, there is still limited discussion on how to optimize a humanistic approach in the criminal justice process, from the investigation stage to the implementation of court decisions. In fact, a humanistic approach that treats drug abusers as human beings with dignity and the potential for change is essential to achieve the objectives of punishment, which are not only to deter but also to restore the physical and mental condition of offenders so that they can return to being productive members of society.

Based on this description, this article aims to examine and analyze the optimization of a humanistic approach in the punishment of drug abusers in Indonesia. Specifically, this study analyzes how a humanistic approach can be optimally implemented in the criminal justice system for narcotics, as well as providing policy recommendations that can support the application of this approach. The novelty of this research lies in its attempt to integrate various aspects of the humanistic approach, including rehabilitation, restorative justice, and respect for human dignity, into a single framework that can be applied practically in handling drug abuse cases in Indonesia. The results of this study are expected to contribute to the development of criminal law, particularly in relation to narcotics sentencing policies, and to provide input for law enforcement officials and policymakers in formulating a more humane approach to narcotics abusers.

of criminal law science, particularly regarding drug sentencing policy in Indonesia.

METHODS

The object of this research is commercial property lease agreements covering shophouses, office buildings, kiosks, and business spaces in shopping centers between property owners and tenants. This research is descriptive in nature with the aim of providing data as detailed as possible regarding humans, situations, or other phenomena. This descriptive research begins by collecting data related to the discussion and then interpreting that data to obtain a clear understanding of the phenomena being studied. In this context, the author will describe the problems in implementing the principle of freedom of contract in commercial property lease agreements, as well as the legal consequences resulting from such implementation.

The type of research used is normative legal research, also known as library research, which is conducted by examining library materials or secondary data. This data includes primary, secondary, and tertiary legal materials. This research analyzes legal norms in legislation related to the principle of freedom of contract and lease agreements, as well as analyzes their application in the practice of commercial property lease agreements in Indonesia.

The approaches used in this study include the statutory approach and the conceptual approach. In the statutory approach, analysis is conducted on all legal rules related to the legal issues being studied, including the Civil Code focusing on provisions regarding agreements and leases, as well as Law Number 8 of 1999 concerning Consumer Protection. Conversely, the conceptual approach is conducted by understanding various views and doctrines developing in the legal field, particularly related to the principle of freedom of contract, the principle of good faith, the principle of proportionality, and standard agreements.

In this research, the data sources collected consist of secondary data obtained through literature study. Secondary data includes primary legal materials such as the Civil Code, Law Number 8 of 1999 concerning Consumer Protection, Government Regulation Number 44 of 1994 concerning Occupation of Houses by Non-Owners, and court decisions related to the research topic. Academic books, legal journals, research results, scientific articles, and opinions of legal experts related to contract law and the principle of freedom of contract are also included. Additionally, tertiary legal materials in the form of legal dictionaries and encyclopedias are used to clarify legal terms used in this research.

Data collection techniques are conducted through document study or literature study by reading, studying, and analyzing legal materials related to research problems. This literature study is conducted to obtain theoretical foundations and information needed to answer the research questions that have been established. All legal materials that have been collected are then inventoried and classified systematically according to the problems being studied.

The data analysis approach applied in this research is qualitative analysis. The collected data is then processed qualitatively by presenting the data in the form of sentences structured systematically, clearly, and in detail. Qualitative analysis is conducted by interpreting the provisions of legislation related to the principle of freedom of contract and lease agreements,

then connecting them with legal theories and expert opinions to subsequently draw conclusions to answer the problems being studied. Conclusions are drawn using the deductive method, which is a thinking approach from general matters to specific conclusions related to the issues being studied in this research.

RESULTS AND DISCUSSION

Overview of the Humanistic Approach in Sentencing Drug Abuse Offenders in Indonesia

This research finds that the humanistic approach in sentencing drug abuse offenders in Indonesia has a sufficiently adequate normative foundation, although its implementation still faces various challenges. Law Number 35 of 2009 concerning Narcotics has explicitly adopted a double track system of sentencing that provides equality between criminal sanctions and rehabilitative measures. Article 4 letter d of the law emphasizes that one of the objectives of narcotics regulation is to guarantee the arrangement of medical and social rehabilitation efforts for drug abusers and addicts. This finding indicates that philosophically, the state has recognized that drug abusers are not merely viewed as criminals, but also as individuals who need health recovery.

The humanistic approach in drug sentencing can be understood as a paradigm that places human dignity as the primary consideration in determining sanctions. This aligns with Sahardjo's thinking in 1963, which emphasized that prisoners remain human beings who can be reformed. Law Number 1 of 2023 concerning the National Criminal Code (KUHP), which will take effect on January 2, 2026, further strengthens this paradigm. Article 51 of the National Criminal Code affirms that the purpose of sentencing is no longer merely as a tool of retribution, but encompasses crime prevention, rehabilitation of convicts, conflict resolution, restoration of social balance, and cultivation of remorse. This shift in orientation from a retributive to a restorative approach reflects a fundamental transformation in the Indonesian criminal justice system's perspective toward offenders.

Supreme Court Circular Number 4 of 2010 serves as an important instrument strengthening the humanistic approach by positioning drug abusers as victims requiring treatment, rather than merely as objects of punishment. This regulation provides guidance for judges to impose rehabilitation sentences on abusers proven to be addicts with evidence below certain limits. The 2014 Joint Regulation of seven state institutions concerning the Handling of Drug Addicts and Victims of Drug Abuse in Rehabilitation Institutions further reinforces this normative framework by establishing an Integrated Assessment Team mechanism tasked with providing recommendations regarding the legal status and rehabilitation needs of drug abuse suspects. This finding differs from research by Romli and Fikma Edrisy (2025), which still found imprisonment dominance in judicial practice, where 90% of drug abusers still received prison sentences according to 2022 ICJR data.

Rehabilitation as a manifestation of the humanistic approach consists of two forms: medical rehabilitation and social rehabilitation. Medical rehabilitation is an integrated treatment process to free addicts from drug dependence, while social rehabilitation is an integrated recovery process—physically, mentally, and socially—so that former addicts can resume their social functions in society. Unlike rehabilitation centers that provide a

multidimensional approach including medical therapy, psychosocial counseling, spiritual guidance, and social reintegration, correctional institutions only conduct guidance through education, vocational training, and spiritual development that does not address the root problem of abusers: medical and psychological addiction. This finding strengthens the argument that a rehabilitative orientation is more relevant for drug abusers because it can restore personal and social capacities disrupted by dependence.

Obstacles to Implementing the Humanistic Approach in Sentencing Drug Abuse Offenders

The study results show that implementation of the humanistic approach in sentencing drug abuse offenders still faces various obstacles of a structural, substantial, and cultural nature. From the legal structure aspect, the main constraint lies in the suboptimal performance of the Integrated Assessment Team (TAT) as a key instrument in determining rehabilitation eligibility for drug abuse suspects. Research at BNN Yogyakarta found that the mental and moral capacity of law enforcement officials is inadequate, official welfare remains low making them vulnerable to corruption practices, the number of officials is disproportionate to the area and population size, and professionalism is insufficient. This condition is exacerbated by strong sectoral egos among institutions resulting in uncoordinated integration, and law enforcement officials' orientation still focuses on sentencing rather than rehabilitation.

Substantial constraints relate to regulatory weaknesses in legislation governing drug abuser rehabilitation. Ten weaknesses in integrated assessment regulations have been identified, including contradictory provisions on rehabilitation articles in the Narcotics Law, the scope of narcotics types in SEMA Number 4 of 2010 that does not follow the latest drug developments, inconsistent terminology for abusers among various regulations, ambiguous classification of the term "caught red-handed," and differences in laboratory examination requirements and rehabilitation facilities between the Joint Regulation and BNN Head Regulation. These substantial weaknesses cause sentencing disparities among judges in imposing sanctions on drug abuse offenders.

Infrastructure and facility constraints also constitute significant barriers to implementing the humanistic approach. Limited laboratory testing facilities and rehabilitation installations in each region become inhibiting factors in implementing integrated assessment. Not all drug abuse cases are equipped with integrated BNN assessment results by investigators or prosecutors due to assessment process financing issues not rigidly determined in legislation. Consequently, imprisonment almost always becomes the type of punishment given to drug abuse offenders. This finding is consistent with research at the Tanjung Perak Surabaya District Prosecutor's Office, which found that the main obstacles lie in limited budgets, lack of inter-agency synergy, and suboptimal understanding of rehabilitation among officials.

From the legal culture aspect, the biggest constraint is the still-strong retribution paradigm among society and law enforcement officials. Society still believes that with sentencing, suspects will become deterred, whereas for abusers, imprisonment is inappropriate because abusers as "sick people" need rehabilitation more to cure their illness. Social stigma toward drug users also becomes a major challenge, where many individuals experience difficulty accessing rehabilitation services due to fear of negative judgment from

society. This condition is worsened by the Integrated Assessment Team's recommendations being merely advisory and non-binding on judges, so final decisions remain dependent on judges' convictions that are often still oriented toward sentencing. Differing views among Integrated Assessment Team members in determining whether a drug abuse offender is suitable to be recommended for rehabilitation also hinder this mechanism's effectiveness.

Optimization Strategies for the Humanistic Approach in Sentencing Drug Abuse Offenders

Based on analysis of the identified obstacles, this research formulates several optimization strategies for the humanistic approach in sentencing drug abuse offenders in Indonesia. Optimization strategy in the legal substance aspect can be implemented through reconstruction of sentencing policy that provides legal certainty guarantees for abusers to obtain rehabilitation. Articles 54 and 127 of the Narcotics Law need revision to eliminate regulatory ambiguity and provide an obligation, not merely an option, for judges to impose rehabilitation on abusers proven to be addicts or victims of drug abuse. Addition of mens rea elements in narcotics criminal provisions is also necessary to prevent and reduce sentencing of abusers who should receive rehabilitation, as recommended by Sahid Hadi in evaluating narcotics law policy.

Optimization strategy in the legal structure aspect requires strengthening the Integrated Assessment Team mechanism as an instrument determining rehabilitation eligibility. Regulations concerning integrated assessment need to be incorporated into legislation binding all law enforcement officials, making integrated assessment implementation for drug abusers mandatory rather than optional. The obligation for investigation-level examination reports and prosecution files to be completed with integrated assessment reports from BNN will help judges examining cases to more accurately determine the type of punishment for drug abuse offenders. Financing of the assessment process by BNN's integrated team must also be rigidly determined in legislation so budget allocation does not become an obstacle to assessment implementation. Increasing rehabilitation institution capacity through investment in facility development and professional training is also crucial to ensure rehabilitation facilities have adequate resources to provide quality services.

Optimization strategy in the legal culture aspect requires paradigm transformation from a retributive to a rehabilitative approach among law enforcement officials and society. Increasing public awareness regarding the importance of rehabilitation and reducing social stigma can help more individuals seek assistance without fear of negative judgment. Education about addiction and rehabilitation must be expanded through various platforms to change society's perspective that rehabilitation does not mean pampering offenders, but is actually a more effective way to protect society in the long term. The National Criminal Code taking effect in 2026 opens opportunities for this transformation by formulating sentencing purposes that explicitly include crime prevention, socializing convicts through guidance, resolving conflicts caused by criminal acts, restoring balance, and cultivating remorse while relieving guilt.

Implementation of an integrated approach encompassing medical, psychosocial, and social support becomes key to successfully optimizing the humanistic approach.

Rehabilitation programs must implement an approach involving good coordination among various related parties, including government, non-governmental organizations, and local communities. Post-rehabilitation support in the form of support groups, continuing therapy, and community reintegration programs is essential to help former addicts readapt to society and reduce relapse risk. Law enforcement needs to focus more on handling and prosecuting large, organized narcotics syndicates importing and distributing narcotics in Indonesia, while abusers are directed to the rehabilitation pathway as recommended by Prof. Mardjono Reksodiputro. Thus, optimization of the humanistic approach in sentencing drug abuse offenders can be realized through synergy between legal substance reform, institutional structure strengthening, and legal culture transformation that places human dignity as the primary consideration.

CONCLUSION

This research has analyzed the optimization of the humanistic approach in sentencing drug abuse offenders in Indonesia and found that the existing normative framework is sufficiently adequate to support this approach, but its implementation still faces serious obstacles at the structural, substantial, and legal culture levels. This finding advances academic understanding by specifically identifying ten weaknesses in integrated assessment regulations and formulating integrative optimization strategies. Unlike previous research that tended to discuss rehabilitation partially, this research offers a comprehensive strengthening framework through reconstruction of Articles 54 and 127 of the Narcotics Law, strengthening the legal standing of Integrated Assessment Team recommendations to be binding, and transforming law enforcement officials' paradigm from a retributive to a rehabilitative approach. The practical implications of this research can serve as input for policymakers in revising the Narcotics Law currently under discussion and as guidance for law enforcement officials in handling drug abuse cases. Further research is recommended to examine the implementation effectiveness of the National Criminal Code taking effect in 2026 regarding drug case handling and to conduct comparative studies with countries that have successfully implemented drug abuser decriminalization policies.

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