

## Effectiveness of Implementing Criminal Sanctions Against Drug Abuse Perpetrators in Indonesia

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**Abstract.** *This study aims to analyze the effectiveness of criminal sanctions imposed on drug abuse offenders within Indonesia's criminal justice system. The increasing number of drug abuse cases indicates that the application of criminal sanctions has not been fully successful in creating a deterrent effect or reducing violations. Therefore, this research seeks to examine the extent to which criminal sanctions have been applied in accordance with the principles of legal justice and the objectives of punishment. The research method used is a normative juridical approach by reviewing legislation, legal theories, and relevant literature. The analysis was conducted descriptively by comparing the implementation of criminal sanctions in practice with applicable criminal law theories. The results of the study show that the effectiveness of criminal sanctions against drug offenders remains limited due to weak law enforcement, suboptimal rehabilitation policies, and lack of coordination among law enforcement institutions. The conclusion of this research emphasizes that the enforcement of criminal sanctions has not been effective in reducing drug abuse cases. It is suggested that rehabilitation-based approaches for addicts be strengthened, law enforcement professionalism be improved, and penal policies be evaluated to prioritize restorative rather than purely repressive justice.*

**Keywords:** Abuse; Criminal; Effectiveness; Justice; Sanctions.

### 1. Introduction

In a state based on the rule of law, law is the main pillar driving the foundations of social, national, and state life. One of the main characteristics of a state based on the rule of law lies in its tendency to assess the actions of its citizens based on legal regulations. This means that a state based on the rule of law always regulates every action and behavior of its citizens based on applicable laws.

Criminal law itself is a tool or means for resolving problems in society. The existence of criminal law can provide justice and appropriate solutions for that society. Because criminal law is a set of regulations that regulate actions, both ordering or prohibiting actions or doing something, which are regulated in the law, with criminal sanctions for violators. Meanwhile, the criminal law in force in Indonesia can be divided into two types: criminal law recognized in the Criminal Code (KUHP) and Special Criminal Law regulated outside the KUHP.

Criminal law not only provides an understanding of actions prohibited by a legal rule, which prohibition is accompanied by a threat (sanction) in the form of a certain penalty for anyone who violates the prohibition, but also includes matters related to the imposition of penalties and how the penalty can be implemented. The prohibition is directed at actions, a condition or event caused by a person's behavior or actions. The threat of criminal penalties or sanctions is directed at the perpetrator who commits a criminal act, usually referred to as "whoever", namely the perpetrator of the criminal act as a legal subject, namely a supporter of rights and obligations in the legal field. So that criminal acts are one of the parts studied in criminal law.

Drug abuse in Indonesia is a growing problem and poses a serious threat to the younger generation, public health, and national security. According to data from the National Narcotics Agency (BNN), the number of drug abuse cases continues to increase annually, particularly among adolescents and young adults, who are vulnerable to social influences and economic pressures. This phenomenon has negative impacts not only on individuals but also on families, communities, and the nation at large.

Furthermore, the high rate of drug abuse has led to a high recidivism rate. Many offenders re-offend despite previously serving criminal sanctions. This indicates that the implementation of criminal sanctions is not yet fully effective in deterring offenders or preventing drug abuse in general.

Legally, Law Number 35 of 2009 concerning Narcotics regulates criminal sanctions for drug abusers, including imprisonment, fines, and rehabilitation. Articles 111 to 127 of the Narcotics Law specify that the types of punishments imposed depend on the type and quantity of narcotics abused. However, implementation of the law in the field still faces various obstacles, including inconsistency among law enforcement officials, limited rehabilitation facilities, and a lack of public legal awareness.

From a criminal law theory perspective, Hans Kelsen stated that criminal law functions as both a preventive and repressive instrument. In other words, criminal law not only punishes perpetrators but also plays a role in preventing crime in society. However, in the context of narcotics, this preventive function has not been fully achieved, as evidenced by the increasing number of new cases and

recidivism.

In addition to legal aspects, drug abuse is also influenced by social, psychological, and economic factors. Socio-structural theory suggests that certain socioeconomic conditions can increase a person's risk of drug abuse. For example, unemployment, poor social circles, and psychological stress often trigger addictive behavior. Therefore, criminal sanctions alone are insufficient without the support of rehabilitation and social prevention programs.

The effectiveness of criminal law in this context is also influenced by public understanding and acceptance of the law. According to Lawrence M. Friedman, the law will be effective if it is accepted, understood, and obeyed by the public. This highlights the need for better legal awareness, anti-narcotics education in schools, and social development for vulnerable groups.

Furthermore, the phenomenon of drug abuse often raises debate regarding the appropriateness of the type of punishment imposed and the goal of prevention. Some argue that imprisonment alone is insufficient, and that rehabilitation is a more appropriate solution to reduce the risk of recidivism. This issue raises critical questions about the effectiveness of criminal sanctions in Indonesia and the need to evaluate existing legal policies.

Given the above conditions, this research is crucial. Its purpose is to examine the extent to which the application of criminal sanctions is effective in preventing drug abuse, the factors that influence its effectiveness, and to provide recommendations for law enforcement officials and policymakers. Based on this, the author is interested in conducting a study entitled: "THE EFFECTIVENESS OF CRIMINAL SANCTIONS ON DRUGS ABUSE PERPETRATORS IN INDONESIA."

## **2. Research methods**

This study uses normative legal research, namely using norms in laws with a conceptual approach and a special approach. The research specification used is Analytical Descriptive, namely an effort to analyze and explain legal issues related to the object. The method used in this study is normative juridical. This research goes through the stages of literature study, the data obtained is then analyzed through a qualitative analysis approach. Qualitative data processing and analysis generally emphasize the analysis of the deductive and inductive conclusion process and the dynamics of the relationship between observed phenomena using scientific logic.

## **3. Results and Discussion**

### **3.1 Implementation of Criminal Sanctions against Narcotics Abusers in Indonesia**

The imposition of criminal sanctions against drug abusers in Indonesia is part of the state's efforts to uphold law and order and protect society from the negative

impacts of narcotics. The Indonesian criminal justice system considers drug abuse a serious crime because it can damage the moral, physical, and social well-being of society at large. According to Moeljatno, criminal law functions not only to punish perpetrators but also to maintain a balance between the interests of society and the individual rights of perpetrators.

From the perspective of legal functionalism theory, drug abuse is seen as a form of social dysfunction that disrupts social order. Law, specifically criminal law, serves as a social mechanism to restore this balance. Talcott Parsons stated that the legal system must be able to enforce mutually agreed-upon norms to prevent society from falling into anomie (a norm vacuum). In the context of narcotics, punishment serves a symbolic function to demonstrate that deviant behavior is unacceptable to society.

Conceptually, drug abuse falls into the category of crimes against public health. Therefore, criminal sanctions are imposed as a form of social control to safeguard public health. Sudarto explained that criminal sanctions should not be understood solely as state revenge, but rather as a social education tool to prevent society from engaging in harmful behavior. Therefore, the application of criminal sanctions to drug abusers must be directed towards behavioral development and rehabilitation, not simply punishment.

From a sociological perspective, Émile Durkheim argued that crime is a normal social phenomenon because it reflects the moral boundaries prevailing in society. This means that drug abuse should not only be addressed with legal sanctions but also be seen as a reflection of weak social control. Therefore, law enforcement efforts must be accompanied by strengthening social, religious, and moral values. Without the support of a healthy social environment, the deterrent effect of crime will not last long.

In judicial practice, the application of criminal sanctions to drug abusers often presents a legal dilemma. On the one hand, law enforcement officials are required to provide a deterrent effect on perpetrators; on the other hand, many perpetrators are actually victims of substance dependence. Barda Nawawi Arief emphasized that the punishment imposed must take into account the nature of the act and the perpetrator's circumstances to avoid substantive injustice. This approach leads to the principle of individualization of punishment, which adapts the punishment to the perpetrator's circumstances.

A criminological perspective is also relevant to understanding the behavior of drug abusers. Edwin H. Sutherland, through his differential association theory, explains that deviant behavior is learned through social interaction. Drug abusers often learn from their social environment or peer pressure. Therefore, prevention involves more than just punishment; it also involves breaking the social chains that support deviant behavior.

The imbalance between repressive and rehabilitative aspects remains a major problem in the application of criminal sanctions. The Indonesian justice system still predominantly uses an incarceration approach to drug abuse. However, this approach is often ineffective because it only punishes without providing psychological and social recovery for the perpetrator. According to Muladi, criminalization must integrate justice and benefit by positioning humans as subjects, not merely objects of the law.

From the progressive legal perspective put forward by Satjipto Rahardjo, law enforcement should be humanitarian. The law should not be enforced mechanically based solely on the text of the law, but must take into account the social and moral values prevalent in society. In cases of drug abuse, this paradigm demands that law enforcement prioritize the rehabilitation of perpetrators over harsh punishment.

The application of criminal sanctions is also influenced by the paradigm of law enforcement officials. Many judges and prosecutors view drug abusers as pure criminals, not victims. This paradigm is rooted in the classical view of punishment as a means of retribution. However, modern theory emphasizes punishment as a means of social development. According to Soerjono Soekanto, the success of law enforcement is largely determined by the mentality of law enforcement officials and the legal culture that develops in society. Therefore, a paradigm shift is crucial for the application of criminal sanctions to be more humane and proportional.

Furthermore, an Islamic legal perspective also provides an important contribution to understanding drug abuse. According to Sharia law, narcotics are classified as substances that damage the mind (*mukhaddirāt*) and are considered haram (forbidden). The principle of "*lā ḍarar wa lā ḍirār*" (not to cause harm to oneself or others) underpins the need for drug abuse prevention and management through both legal and rehabilitative approaches. This approach reinforces the idea that punishment should be educational, not merely repressive.

Besides the apparatus, structural issues such as correctional facility capacity also pose a challenge. Many correctional facilities in Indonesia are overcrowded due to the high number of drug cases. This results in suboptimal rehabilitation. Satjipto Rahardjo believes that the legal system will not function effectively if it only emphasizes legal certainty without considering humanity and justice. Therefore, law enforcement policies need to be reformed to emphasize rehabilitation over imprisonment.

From a legal theory perspective, the application of criminal sanctions to drug abusers should adhere to the principle of corrective justice, namely, restoring the perpetrator and the community that has been harmed. Gustav Radbruch emphasized that good law must encompass three basic values: justice, utility, and legal certainty. In the context of narcotics, these three values must be balanced so

that law enforcement does not become a tool of power, but a means to restore social order.

In addition to legal aspects, the implementation of criminal penalties must also consider the objectives of punishment. According to Barda Nawawi Arief, the objectives of punishment include protecting society, reparating losses, and developing offenders to become law-abiding citizens. Applying excessively harsh criminal sanctions to drug abusers actually contradicts these objectives by denying offenders the opportunity to change through rehabilitation.

In the context of substantive justice, many cases demonstrate that drug abusers come from lower socioeconomic groups. This creates a sense of discrimination in judicial practice, as wealthy offenders often receive lesser sentences. According to Satjipto Rahardjo, the law often loses its moral orientation when it favors power over truth. Therefore, reforms in drug law enforcement must also encompass changes to the social structure of the judiciary to make it more just and equitable.

The relevance of restorative justice theory is also crucial in this context. This theory emphasizes resolving criminal cases by improving the relationship between the perpetrator and the community. According to Muladi, the application of restorative justice principles in modern criminal law aims to restore social balance and mitigate the negative impacts of imprisonment. When applied to drug abuse cases, this approach can shift the focus from punishment to recovery and rehabilitation.

In practice, Indonesian courts still struggle to distinguish between drug abusers, dealers, and couriers. Lack of evidence and the subjectivity of officials often lead to drug abusers being categorized as dealers. According to Soerjono Soekanto, weak official professionalism is a major cause of ineffective law enforcement. This results in disproportionate sanctions and the potential for injustice.

The ineffectiveness of the justice system is further exacerbated by the lack of rehabilitation facilities. Many regions in Indonesia lack adequate drug rehabilitation facilities, both medically and socially. As a result, rehabilitation sentences are difficult to enforce, even if they have been issued by a judge. According to Sudarto, criminal law should be applied with due regard to the conditions of the community and the capabilities of implementing institutions to avoid a disparity between norms and reality.

Furthermore, criminal sanctions against drug abusers have not been able to reduce recidivism rates. Many former drug convicts return to drug use after being released from prison. This indicates that the correctional system is ineffective. According to Muladi, the failure of correctional institutions to provide correctional services can cause punishment to lose its preventive and corrective functions.

From a criminal policy perspective, strategies to combat drug abuse should not

rely solely on criminal law, but also incorporate non-penal approaches such as education, social, and economic aspects. Barda Nawawi Arief emphasized that criminal law policy must be positioned as part of a broader social policy to achieve public welfare. Thus, criminal law serves as a complementary tool, not the sole solution, in addressing the drug problem.

Overall, the application of criminal sanctions to drug abusers in Indonesia still faces challenges in terms of substance, structure, and legal culture. A paradigm shift in law enforcement is needed, emphasizing a humanitarian approach and substantive justice. As Satjipto Rahardjo stated, the law must be positioned as an instrument for human happiness, not merely enforcing the text of the law. Therefore, the application of criminal sanctions to drug abusers will be more effective if implemented based on the principles of social justice, rehabilitation, and the benefit of the wider community.

### **3.2 To What Extent Are Criminal Sanctions Effective in Preventing Drug Abuse?**

The effectiveness of criminal sanctions is a measure of the extent to which a punishment achieves its intended goal, namely to deter perpetrators and prevent similar crimes from occurring in society. In the context of drug abuse, this effectiveness can be seen in the decline in the number of violations and the increase in public awareness of the dangers of drugs. However, in Indonesia, despite the strict implementation of criminal sanctions, drug abuse rates remain high. This indicates a gap between law enforcement theory and the social reality on the ground.

One important aspect in measuring the effectiveness of criminal sanctions is the extent to which they deter perpetrators. In Moeljatno's view, the purpose of punishment is not merely retribution, but also to reform perpetrators so they do not repeat their actions in the future. However, in practice, many drug abuser relapse into similar cases after serving their sentences, indicating that the deterrent effect has not been optimally achieved.

According to Sudarto, the effectiveness of the law is greatly influenced by public awareness of applicable norms. The application of criminal sanctions will be effective if supported by a high level of legal awareness, both from the public and law enforcement officials. In the case of narcotics, low public awareness of the dangers of abuse is a dominant factor weakening the deterrent effect of criminal sanctions.

Furthermore, Soerjono Soekanto's theory on legal effectiveness states that the success of law enforcement depends on five factors: the law itself, law enforcement, facilities and infrastructure, society, and culture. In the context of narcotics criminal sanctions, these five factors are interrelated and determine whether punishment is truly effective in preventing abuse.

The effectiveness of criminal sanctions also depends on the correctional system applied to the perpetrator. According to Barda Nawawi Arief, criminal sanctions should not only emphasize punishment but also focus on the social and psychological rehabilitation of the perpetrator so they can function normally in society. An overly repressive approach without balanced guidance will potentially lead to recidivism.

In many cases, drug abusers are not actually criminals, but rather victims of a larger illicit drug distribution and trafficking system. Therefore, the effectiveness of criminal sanctions in this context must be understood proportionally, not simply by punishing the perpetrators but also by targeting the root causes of the crime, such as distribution networks and weak distribution oversight.

From the perspective of the theory of the purpose of punishment, as explained by Muladi, the effectiveness of criminal sanctions can only be achieved if punishment not only causes suffering for the perpetrator, but also improves their behavior so they can return to being law-abiding members of society. Therefore, the effectiveness of punishment for drug abusers needs to be measured not only by the severity of the punishment, but also by the results of rehabilitation and social reintegration achieved.

In practice, the implementation of criminal sanctions is often hampered by a mismatch between theory and application. Many cases of drug abusers who should be undergoing rehabilitation are instead sentenced to prison, ultimately worsening their psychological and social conditions. This demonstrates that the criminal justice system is not yet fully effective in achieving the humane goals of the law.

Effectiveness is also greatly influenced by the ability of correctional institutions to implement rehabilitative measures. As Satjipto Rahardjo has argued, the law must provide social and humanitarian benefits, not simply enforce the text of the law. However, overcrowded correctional institutions often pose a serious obstacle to the effectiveness of criminal sanctions.

Furthermore, the effectiveness of criminal sanctions also depends on coordination between law enforcement agencies, such as the police, prosecutors, and courts. Disharmony between these agencies can lead to inconsistencies in law enforcement, ultimately eroding public trust in the criminal justice system. According to Jimly Asshiddiqie, the rule of law cannot be upheld without professionalism and integrity among law enforcement officials.

Beyond institutional aspects, social and economic factors also play a significant role. Many drug abusers come from economically and educationally vulnerable communities, making a criminal approach alone ineffective. A more comprehensive legal strategy is needed, including legal education, community empowerment, and social campaigns about the dangers of drugs.

In the context of criminal policy, the effectiveness of criminal sanctions must be measured by clear indicators, such as reduced recidivism rates, increased legal awareness, and the success of rehabilitation programs. As explained by PAF Lamintang, criminal punishment is a means of enforcing social norms through coercive legal regulations. However, coercion without a social approach can generate resistance and lack a deep deterrent effect.

Thus, the effectiveness of criminal sanctions in preventing drug abuse still faces numerous obstacles, both normative, structural, and cultural. Without a paradigm shift from "punishing" to "educating and rehabilitating," the legal goal of creating justice and order will not be optimally achieved.

Therefore, a comprehensive evaluation of drug sentencing policies is necessary, including strengthening the role of rehabilitation and social reintegration. The application of criminal sanctions must take into account the characteristics of the perpetrator, their social background, and the ultimate goal of the law itself, namely achieving substantive justice.

The effectiveness of new criminal sanctions can only be said to be successful if the perpetrator of drug abuse not only receives punishment, but also experiences behavioral changes, so that they are able to live productively in society again without relying on narcotics.

### **3.3 Factors Influencing the Effectiveness of the Implementation of Criminal Sanctions against Narcotics Abusers**

The effectiveness of criminal sanctions against drug abusers is determined not only by the existence of legal regulations, but also by various factors that influence their implementation. According to Soerjono Soekanto, legal effectiveness depends heavily on five main components: the law itself, law enforcement, facilities and infrastructure, community factors, and cultural factors. These five factors are interrelated and determine the extent to which criminal sanctions can be applied fairly and effectively to drug abusers in Indonesia.

In the context of modern law enforcement, the effectiveness of criminal sanctions must be measured not only by reducing crime rates, but also by the legal system's ability to restore offenders to a healthy social life. According to Jeremy Bentham's theory of legal utilitarianism, the primary purpose of punishment is to create the greatest happiness for the greatest number of people. This means that punishing drug offenders should bring social benefits, not just individual suffering. This approach emphasizes the importance of striking a balance between legal certainty and legal expediency.

The first factor is legal substance, namely the content or legal norms that form the basis for the application of criminal sanctions. In the context of narcotics crimes, laws and regulations clearly stipulate prohibitions, types of sanctions, and legal

procedures. However, according to Barda Nawawi Arief, overly repressive regulations without room for a rehabilitative approach often lead to inequities in their implementation. When the law only emphasizes punishment without considering the perpetrator's human rights, the goal of punishment to improve the perpetrator's behavior will not be achieved.

The second factor is law enforcement. The effectiveness of criminal sanctions depends heavily on the integrity and professionalism of law enforcement officials, such as police, prosecutors, judges, and correctional officers. Sudarto emphasized that the success of law enforcement is determined not only by the severity of the punishment, but also by how consistently and fairly the authorities enforce the law. In practice, discrepancies are often found in the handling of narcotics cases—some receive harsh sentences, while others receive leniency due to legal loopholes or power factors, thus giving rise to public distrust in the legal system.

The third factor is legal facilities and infrastructure. The effectiveness of criminal sanctions is largely determined by the availability of facilities such as rehabilitation centers, the capacity of correctional institutions, and competent human resources to handle drug cases. Muladi stated that without adequate facilities, the criminal justice system becomes merely an administrative process without tangible remedial results. Overcrowded correctional institutions, for example, render the remedial process ineffective and even worsen the conditions of offenders.

The fourth factor is society. Public legal awareness plays a crucial role in determining the effectiveness of the law. According to Soerjono Soekanto, the law will be difficult to enforce if the public lacks a sufficient understanding of legal values. In the context of drug abuse, low public awareness of the dangers of drugs is a serious obstacle. Many people still view drugs as trivial or even part of a modern lifestyle, making prevention efforts less effective.

The fifth factor is legal culture. Legal culture reflects a society's mindset and behavior toward the law. Satjipto Rahardjo explained that the law cannot function effectively without the support of a healthy legal culture. In a society that is permissive toward violations of the law, criminal sanctions lose their deterrent effect. Therefore, a paradigm shift in society's attitude toward the law is essential to increase the effectiveness of the application of criminal sanctions for narcotics.

In addition to these five main factors, there are additional influencing factors, namely economic and social factors. Many drug abusers come from lower-middle-class backgrounds, who are vulnerable to social pressures and lack access to a good education. Moeljatno stated that crime is often driven by socioeconomic imbalances. Therefore, the effectiveness of criminal sanctions cannot be separated from efforts to improve the social conditions of the community.

Legal politics also plays a significant role in determining the direction of drug crime policy. Jimly Asshiddiqie emphasized that legal politics reflects the state's will to

regulate society through law. If state policy focuses more on repression without considering rehabilitation and prevention, the application of criminal sanctions will be short-term and fail to address the root of the problem.

Furthermore, inconsistent enforcement is also a major obstacle. Inconsistencies in court decisions, differing interpretations of laws among law enforcement agencies, and weak coordination between institutions often lead to ineffective law enforcement. This aligns with PAF Lamintang's view that criminal law will only be effective if it is applied consistently and non-discriminatorily.

Monitoring and evaluation factors also determine the effectiveness of criminal sanctions. A good legal system not only determines penalties but also monitors the results of their implementation. Comprehensive evaluations of the effectiveness of criminal sanctions are rarely conducted in Indonesia, resulting in criminal policies often not being updated to reflect social dynamics.

Legal education and the morality of law enforcement officers are additional keys to ensuring just law enforcement. The numerous cases of abuse of authority, bribery, and corruption within law enforcement agencies demonstrate the continued weakness of professional ethics in criminal law enforcement. Without the moral integrity of law enforcement officers, no matter how harsh the criminal sanctions imposed, they will not have a deterrent effect on the public.

Furthermore, community and family support also influences the effectiveness of criminal sanctions. Offenders who have served time or undergone rehabilitation often experience social stigma that makes it difficult for them to readjust. Consequently, they are vulnerable to reoffending. Therefore, social support is a crucial factor in the successful recovery of drug abusers.

Furthermore, the effectiveness of criminal sanctions is also determined by the role of the mass media. The media has a significant influence in shaping public opinion about the dangers of narcotics and law enforcement. If the media only emphasizes sensationalism without providing proper education, the public will not fully understand the meaning of the law. Satjipto Rahardjo emphasized that the media should be a means of legal education for the public, not merely a means of entertainment.

From the perspective of deterrence theory, punishment serves as a threat to discourage society from committing crimes. However, this theory will fail if perpetrators lack legal awareness or become trapped in physiological and social dependence on drugs. This is where the rehabilitative approach, as conceived in modern correctional theory, becomes crucial, emphasizing the importance of punishment not merely to punish but to reform. If the criminal justice system does not provide a pathway to recovery, its effectiveness as a deterrent will be severely limited.

According to Sudarto, the effectiveness of the law is greatly influenced by public awareness of applicable norms. The application of criminal sanctions will be effective if supported by a high level of legal awareness, both from the public and law enforcement officials. In the case of narcotics, low public awareness of the dangers of abuse is a dominant factor weakening the deterrent effect of criminal sanctions.

In addition to legal awareness, cultural and social factors also influence the effectiveness of criminal sanctions. In some areas, narcotics have even become part of the lifestyle of young people due to environmental influences and weak social control. According to Soerjono Soekanto, the law cannot be effective if societal values do not support its implementation. Therefore, eradicating narcotics cannot be achieved solely through a criminal law approach, but also through education, moral development, and strengthening social communities.

Furthermore, Soerjono Soekanto's theory on legal effectiveness states that the success of law enforcement depends on five factors: the law itself, law enforcement, facilities and infrastructure, society, and culture. In the context of narcotics criminal sanctions, these five factors are interrelated and determine whether punishment is truly effective in preventing abuse.

However, from an empirical perspective, the implementation of criminal sanctions often lacks a balance between legal and humanitarian aspects. Many drug abusers who should receive rehabilitation are instead placed in correctional institutions that lack adequate rehabilitation facilities. This situation worsens the offender's situation and increases the risk of recidivism. This demonstrates that effective criminal justice will be difficult to achieve without the support of a systematic rehabilitation policy.

The effectiveness of criminal sanctions also depends on the correctional system applied to the perpetrator. According to Barda Nawawi Arief, criminal sanctions should not only emphasize punishment but also focus on the social and psychological rehabilitation of the perpetrator so they can function normally in society. An overly repressive approach without balanced guidance will potentially lead to recidivism.

The restorative justice approach is a relevant alternative to address the ineffectiveness of the drug criminal justice system. The principles of restorative justice emphasize restoring social relationships and the perpetrator's responsibility to themselves and society. According to Muladi, the implementation of restorative justice can mitigate the negative impacts of imprisonment, such as stigmatization and moral degradation. Thus, the effectiveness of criminal sanctions can be enhanced if the legal system allows for restorative solutions, rather than simply punishment.

In many cases, drug abusers are not actually criminals, but rather victims of a larger

illicit drug distribution and trafficking system. Therefore, the effectiveness of criminal sanctions in this context must be understood proportionally, not simply by punishing the perpetrators but also by targeting the root causes of the crime, such as distribution networks and weak distribution oversight.

Furthermore, the effectiveness of criminal justice also needs to be analyzed from a progressive legal perspective, as proposed by Satjipto Rahardjo. Progressive law rejects the view that law is merely a legal text, but instead places humans at the center of justice. In the context of drug abuse, effective law enforcement means that the law must favor human rehabilitation, not simply punishment. This approach aligns with the humanitarian spirit enshrined in the Indonesian constitution.

From the perspective of the theory of the purpose of punishment, as explained by Muladi, the effectiveness of criminal sanctions can only be achieved if punishment not only causes suffering for the perpetrator, but also improves their behavior so they can return to being law-abiding members of society. Therefore, the effectiveness of punishment for drug abusers needs to be measured not only by the severity of the punishment, but also by the results of rehabilitation and social reintegration achieved.

The failure of the rehabilitation system is also a major factor hampering the effectiveness of criminal justice. Many rehabilitation institutions in Indonesia lack the professional staff and adequate medical facilities to comprehensively treat drug addiction. Consequently, many offenders return to drug use after leaving rehabilitation. This confirms that the effectiveness of criminal justice cannot be separated from the effectiveness of national rehabilitation policies.

In practice, the implementation of criminal sanctions is often hampered by a mismatch between theory and application. Many cases of drug abusers who should be undergoing rehabilitation are instead sentenced to prison, ultimately worsening their psychological and social conditions. This demonstrates that the criminal justice system is not yet fully effective in achieving the humane goals of the law.

Furthermore, social inequality must also be taken into account when analyzing the effectiveness of criminal sanctions. Many perpetrators from lower socioeconomic backgrounds lack adequate legal assistance, while perpetrators from influential backgrounds often receive leniency. This inequality makes the effectiveness of criminal sanctions relative, as the law is no longer an instrument of justice, but rather a tool of power. Therefore, reform of the criminal justice system is absolutely necessary to ensure that legal effectiveness truly reflects substantive justice.

Effectiveness is also greatly influenced by the ability of correctional institutions to implement rehabilitative measures. As Satjipto Rahardjo has argued, the law must

provide social and humanitarian benefits, not simply enforce the text of the law. However, overcrowded correctional institutions often pose a serious obstacle to the effectiveness of criminal sanctions.

Ultimately, the effectiveness of criminal law must be viewed holistically, encompassing the legal system, social policy, and the humanitarian dimension. Effective law is not a harsh one, but one that can change human behavior for the better. Therefore, improvements to the narcotics criminal justice system must be directed at integrating law enforcement, rehabilitation, and social education, so that the resulting deterrent effect is not driven by fear, but by a growing legal awareness within the perpetrator.

Finally, policy synchronization between state institutions also needs to be considered. Effective law enforcement requires cooperation between the Ministry of Law and Human Rights, the National Narcotics Agency (BNN), the National Police, and the Prosecutor's Office. Lack of coordination can lead to overlapping policies, which actually weakens the implementation of criminal sanctions.

From this overall description, it can be concluded that the effectiveness of enforcing criminal sanctions against drug abusers depends heavily on the synergy between the legal system, law enforcement officials, society, and culture. Without harmony among these factors, the law will not be able to fulfill its function as an effective social control tool.

#### **4. Conclusion**

The application of criminal sanctions against drug abusers in Indonesia is strictly regulated in the national legal system through various laws and regulations. However, their implementation in practice has not been fully consistent with the principles of justice and the objectives of punishment. Many cases demonstrate that law enforcement remains oriented toward punishment (retributive) rather than rehabilitation, thus failing to provide the desired deterrent effect or behavioral change. The effectiveness of criminal sanctions in preventing drug abuse remains relatively low. This is evident in the high recidivism rate and the continued rise in the number of drug users. Criminal penalties, particularly imprisonment, are not yet an effective preventive measure because they are not accompanied by mental, social, and economic development for perpetrators. Therefore, the legal objectives of protecting society and maintaining order have not been optimally achieved. Factors influencing the effectiveness of criminal sanctions include legal substance that places too much emphasis on repressive aspects, weak professionalism of law enforcement officers, limited facilities and infrastructure, low public legal awareness, and the lack of a strong legal culture. Furthermore, social, economic, and political-legal factors also influence the success of criminal sanctions against drug abusers in Indonesia.

## **5. References**

### **Al-Qur'an and Hadith:**

Al-Quran, Surah An-Nisa: 43.

Abu Dawud, Sunan Abu Dawud, Kitab al-Ashribah, Hadith No. 3670.

Al-Qur'an, Surah An-Nisa: 43.

Abu Dawud, Sunan Abu Dawud, Kitab al-Ashribah, Hadis No. 3670.

### **Journals:**

Marsudi Utoyo dkk., "Sengaja dan Tidak Sengaja dalam Hukum Pidana Indonesia,"  
Lex Librum: Jurnal Ilmu Hukum, Vol. 7, No. 1, 2020.

Anton Sudanto, "Penerapan Hukum Pidana Narkotika di Indonesia," Jurnal Fakultas  
Hukum Universitas 17 Agustus 1945 Jakarta, 2013.

### **Books:**

Andi Hamzah. Bunga Rampai Hukum Pidana dan Acara Pidana. Jakarta: Ghalia,  
1986.

Andi Hamzah. Hukum Acara Pidana Indonesia. Jakarta: Saptar Artha Jaya, 1996.

Anton Sudanto. "Penerapan Hukum Pidana Narkotika di Indonesia." Jurnal Fakultas  
Hukum Universitas 17 Agustus 1945 Jakarta, 2013.

Arief, Barda Nawawi. Bunga Rampai Kebijakan Hukum Pidana. Bandung: Citra  
Aditya Bakti, 2010.

Arief, Barda Nawawi. Kebijakan Hukum Pidana. Jakarta: Kencana, 2013.

Arief, Barda Nawawi. Masalah Penegakan Hukum dan Kebijakan Hukum Pidana.  
Bandung: Alumni, 1998.

Asshiddiqie, Jimly. Konstitusi dan Konstitusionalisme Indonesia. Jakarta: Sinar  
Grafika, 2010.

Chairul Huda. Dari Tiada Pidana Tanpa Kesalahan Menuju Kepada Tiada  
Pertanggungjawaban Pidana Tanpa Kesalahan. Jakarta: Kencana Prenada  
Media, 2006.

Djoko Prakoso. Kedudukan Justisiabel di Dalam KUHP. Jakarta: Ghalia Indonesia,  
1986.

Evi Hartanti. Tindak Pidana Korupsi: Edisi Kedua. Jakarta: Sinar Grafika, 2012.

- Friedman, Lawrence M. *The Legal System: A Social Science Perspective*. New York: Russell Sage Foundation, 1975.
- Hamrat Hamid dan Harun M. Husein. *Pembahasan Permasalahan KUHP Bidang Penyidikan (Dalam Bentuk Tanya Jawab)*. Jakarta: Sinar Grafika, 1997.
- Hans Kelsen. *General Theory of Law and State*. New York: Russell & Russell, 1945.
- Harun M. Husein. *Penyidikan dan Penuntutan Dalam Proses Pidana*. Jakarta: Rineka Cipta, 1991.
- Kejaksaan Republik Indonesia. *Modul Azas-Azas Hukum Pidana*. Jakarta: Pusat Pendidikan dan Pelatihan Kejaksaan RI, 2010.
- Lamintang, P.A.F. *Dasar-Dasar Hukum Pidana Indonesia*. Bandung: Citra Aditya Bakti, 1997.
- Lawrence M. Friedman. *The Legal System: A Social Science Perspective*. New York: Russell Sage Foundation, 1975.
- Lilik Mulyadi. *Hukum Acara Pidana: Normatif, Teoritis, Praktik dan Permasalahannya*. Bandung: Alumni, 2007.
- Loebby Loqman. *Praperadilan di Indonesia*. Jakarta: Ghalia Indonesia, 1990.
- Luhut M.P. Pangaribuan. *Hukum Acara Pidana: Surat-Surat Resmi di Pengadilan oleh Advokat*. Jakarta: Djambatan, 2008.
- Marsudi Utoyo dkk. "Sengaja dan Tidak Sengaja dalam Hukum Pidana Indonesia." *Lex Librum: Jurnal Ilmu Hukum*, Vol. 7, No. 1, 2020.
- Masruhi Sudiro. *Islam Melawan Narkoba*. Yogyakarta: CV Adipura, 2012.
- Moeljatno. *Asas-Asas Hukum Pidana*. Jakarta: Rineka Cipta, 2008.
- Muladi. *Kapita Selekta Sistem Peradilan Pidana*. Semarang: Badan Penerbit UNDIP, 1995.
- Muladi. *Kebijakan Kriminal dalam Penegakan Hukum*. Bandung: Alumni, 1995.
- Muladi. *Lembaga Pemasyarakatan dalam Perspektif Pembinaan Narapidana*. Semarang: UNDIP Press, 1998.
- Muladi dan Barda Nawawi Arief. *Teori-Teori dan Kebijakan Pidana*. Bandung: Alumni, 1992.
- M. Yahya Harahap. *Pembahasan Permasalahan dan Penerapan KUHP: Penyidikan dan Penuntutan*. Jakarta: Sinar Grafika, 2009.
- N. Coleman. *Social Theory and Drug Use*. London: Routledge, 2010.

- Nikolas Simanjutak. Acara Pidana Indonesia dalam Sirkus Hukum. Bogor: Ghalia Indonesia, 2009.
- P.A.F. Lamintang. Dasar-Dasar Hukum Pidana Indonesia. Bandung: Citra Aditya Bakti, 1997.
- Rahardjo, Satjipto. Hukum dan Masyarakat. Bandung: Angkasa, 2009.
- Rahardjo, Satjipto. Hukum dan Perubahan Sosial. Bandung: Sinar Baru Algensindo, 2009.
- Rahardjo, Satjipto. Ilmu Hukum. Bandung: Citra Aditya Bakti, 2006.
- Rahardjo, Satjipto. Hukum Progresif: Sebuah Sintesa Hukum Indonesia. Yogyakarta: Genta Publishing, 2011.
- Rahman Syamsuddin. Merajut Hukum di Indonesia. Jakarta: Mitra Wacana Media, 2014.
- Radbruch, Gustav. Einführung in die Rechtswissenschaften. Heidelberg: C.F. Müller, 1973.
- Rodliyah. Hukum Pidana Khusus: Unsur dan Sanksi Pidananya. Jakarta: Raja Grafindo Persada, 2017.
- Romli Atmasasmita. Sistem Peradilan Pidana Kontemporer. Jakarta: Kencana, 2010.
- Romli Atmasasmita. Sistem Peradilan Pidana: Perspektif Eksistensialisme dan Abolisionalisme. Bandung: Putra Abardin, 1996.
- R. Soesilo. Taktik dan Teknik Penyidikan Perkara Kriminil. Bogor: Politea, t.t.
- R. Tresna. Peradilan di Indonesia dari Abad ke Abad. Jakarta, 1995.
- Sidik Sunaryo. Kapita Selekta Sistem Peradilan Pidana. Malang: UMM Press, t.t.
- Soekanto, Soerjono. Efektivitas Hukum dan Kesadaran Hukum Masyarakat. Jakarta: Raja Grafindo Persada, 2006.
- Soekanto, Soerjono. Faktor-Faktor yang Mempengaruhi Penegakan Hukum. Jakarta: Raja Grafindo Persada, 2008.
- Soekanto, Soerjono. Pengantar Penelitian Hukum. Jakarta: UI Press, 1984.
- Soerjono Soekanto dan Sri Mahmudji. Penelitian Hukum Normatif: Suatu Tinjauan Singkat. Jakarta: Raja Grafindo Persada, 2003.
- Sudarto. Asas-Asas Hukum Pidana. Jakarta: Ghalia Indonesia, 1990.

- Sudarto. Hukum dan Hukum Pidana. Bandung: Alumni, 1983.
- Sudarto. Hukum Pidana dan Perkembangan Masyarakat. Bandung: Sinar Baru, 1983.
- Sudarto. Kapita Selekta Hukum Pidana. Bandung: Balai Pustaka, 2014.
- Sudikno Mertokusumo. Hukum Acara Perdata Indonesia. Yogyakarta: Liberty, 1982.
- Tolib Effendi. Sistem Peradilan Pidana: Perbandingan Komponen dan Proses Sistem Peradilan Pidana di Beberapa Negara. Yogyakarta: Pustaka Yustisia, 2013.
- Utrecht. Hukum Pidana I. Surabaya: Pustaka Tindak Mas, 1986.
- World Health Organization (WHO). Global Status Report on Alcohol and Health 2022. Geneva: WHO, 2022.
- Barda Nawawi Arief, Masalah Penegakan Hukum dan Kebijakan Hukum Pidana, Bandung: Alumni, 1998.
- Emile Durkheim, The Division of Labor in Society, New York: Free Press, 1984.
- Robert K. Merton, Social Theory and Social Structure, New York: Free Press, 1968.
- Badan Narkotika Nasional (BNN), Laporan Tahunan Penyalahgunaan Narkotika di Indonesia 2023, Jakarta: BNN, 2023.
- Soerjono Soekanto & Sri Mahmudji, Penelitian Hukum Normatif: Suatu Tinjauan Singkat, Jakarta: Raja Grafindo Persada, 2003.

**Regulation:**

- The 1945 Constitution of the Republic of Indonesia
- Criminal Code (KUHP)
- Law Number 8 of 1981 concerning the Criminal Procedure Code
- Law Number 35 of 2009 concerning Narcotics. Jakarta: DPR RI, 2009.
- Law Number 8 of 1981 concerning Criminal Procedure Law (KUHP).
- Law Number 35 of 2009 concerning Narcotics.