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Jurnal Ilmu Hukum

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THE EFFECT OF RESTORATIVE JUSTICE FOR DRUG USERS ON THE OVERCAPACITY OF CORRECTIONAL FACILITY IN SOLO CITY

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Article History	:	
Submission	:	23 March 2024
Last Revisions	:	18 May 2024
Accepted	:	22 May 2024
Copyedits Approved	:	28 May 2024

Abstract

The problem of drug abuse has become a major challenge in many countries, causing the number of prisoners addicted to narcotics to increase and causing overcrowding in prisons. This article discusses the influence of restorative justice as an innovative solution in dealing with drug users and overcrowding in correctional facility. Restorative justice replaces the traditional punishment-focused approach with one that is oriented towards rehabilitation, reconciliation, and the active participation of drug users in the rehabilitation process. In addition, restorative justice can help reduce overcrowding in prisons by reassessing the detention approach to drug users. Alternatives such as community-based rehabilitation programs and electronic monitoring could be implemented to alleviate pressure on the overcrowded prison system. By combining restorative justice and prison reform, governments can create more sustainable and humane solutions to the complex challenges of drug addiction.

Keywords: Restorative; Justice; Drugs.

A. INTRODUCTION

The various factors taken into consideration in the current reforms have posed a significant threat to the expansion of trade, but on the contrary, widespread globalization has created a number of problems in almost every aspect of people's lives. It has a wide-ranging impact on many aspects of society, including religion, politics, economics, education, knowledge-based science, and technology, making it a lucrative business sector as a result of these changes.¹ The ability of drug crimes to also rapidly demonstrate problems in these various aspects. Not only does it discourage illegal use, but the pharmaceutical industry as a whole is also implicated in health issues; drug crime also impacts various aspects of society, including the international economy, society at large, health promotion efforts, and even the morals and ethics of a country. Historical evidence suggests that drugs may have an impact on interstate relations. As such, all forms of crime of this kind require systematic attention.²

The development of correctional drivers and students through a correctional system based on education, recovery and integrity is a criminal subsystem, known as the Correctional Institution (Lapas). In Law No. 22 of 2022 on Corrections adheres to the paradigm of rehabilitation and social reintegration, which means that the purpose of the correctional system is to improve the behavior of prisoners and children, so that they can become good and productive members of society. The handling carried out is not too broad because the problem comes from prisons which are complex areas. "Over capacity" is one of the fundamental problems.³

According to the Directorate General of Human Rights of the Ministry of Law and Human Rights (Kemenkumham), 60% of the surplus capacity of prisons and correctional institutions (Rutan) is filled by drug-related cases. As of April 31, 2023, the number of inmates recorded in detention was approximately 264,000, exceeding the expected 146,000. This means an increase of 86%, of which 60% of the cases are drug users. These gains have many adverse effects on the physical and psychological well-being of prisoners, as well as often leading to conflicts between prisoners and

¹ Ronny Nicolas Sidabutar and Alvi Syahrin, "Penyelesaian Perkara Narkotika Bagi Penyalahguna Sebagai Korban Dengan Pendekatan Keadilan Restoratif Dalam Kajian Norma Keadilan Berdasarkan Pancasila," *Jurnal Hukum Kaidah: Media Komunikasi Dan Informasi Dan Masyarakat* 23, no. 1 (2022): 10-25.

² Alif Wisuda Arifin, Pujiyono, and Nur Rochaeti, "Implementasi Konsep Restorative Justice Sebagai Upaya Menanggulangi Overcapacity Narapidana Di Lembaga Pemasyarakatan Kelas I Semarang," *Diponegoro Law Journal* 11, no. 1 (2021): 361-416.

³ Wulan Dwi Yulianti, "Upaya Menanggulangi Over Kapasitas Pada Lembaga Pemasyarakatan Di Indonesia," *Al-Qisthu: Jurnal Kajian Ilmu-Ilmu Hukum* 18, no. 2 (2020): 61-66, <https://doi.org/10.32694/010980>.

inadequate and dysfunctional guidance from correctional officers. Other adverse consequences that may arise are spikes in the use of water, electricity, and food.⁴

Users or users of Narcotics apart from being perpetrators of criminal acts, are also victims of the crime itself, which in the view of victimology is often referred to as self-victimization or victimless crime. Theoretically, sentencing has several objectives that can be classified based on theories about sentencing. The theory of treatment is an integrated process of treatment activities to free abusers from dependence. This is in accordance with the punishment intended by the stream of treatment theory, namely, to provide treatment and rehabilitation to the perpetrators of criminal acts as a substitute for punishment. The perpetrator of the crime is a sick person who needs treatment and improvement.

In dealing with narcotics abusers and addicts, law enforcement officials must be oriented towards action sanctions in the form of rehabilitation in order to save the future of narcotics users. To be able to function the role of judges in deciding or determining rehabilitation, it needs support from other law enforcement officials. Of course, this must be based on mutual understanding and agreement that narcotics abuse is a serious problem for the nation and an enemy of the nation. The government and law enforcement officials must unite and equate the vision and mission to tackle narcotics abusers and addicts in order to realize the noble ideals of the nation to create a healthy nation's generation.

Understanding and agreement from the government and law enforcement officials in tackling narcotics crimes is realized through joint regulations of the Chief Justice of the Republic of Indonesia, Minister of Law and Human Rights of the Republic of Indonesia, Minister of Health of the Republic of Indonesia, Minister of Social Affairs of the Republic of Indonesia, Attorney General of the Republic of Indonesia, Chief of Police Republic of Indonesia, Head of the National Narcotics Agency of the Republic of Indonesia regarding the Handling of Narcotics Addicts and Victims of Narcotics Abuse in Rehabilitation Institutions, hereinafter referred to as joint regulations. Thus, narcotics abusers and addicts no longer lead to criminal sanctions in prison but lead to rehabilitation.

One strategy to address the problem of overcrowding in correctional institutions is the implementation of restorative justice. This approach entails a

⁴ Usman Usman, Bahder Johan Nasution, and Elizabeth Seregar, "Over Kapasitas Lembaga Pemasyarakatan Dalam Perespektif Kebijakan Hukum Pidana," *Wajah Hukum* 4, no. 2 (2020): 436, <https://doi.org/10.33087/wjh.v4i2.256>.

change in the way sentencing is carried out within the criminal justice system, with a focus on ensuring justice for both victims and offenders. Restorative justice aims to reduce the number of offenders sentenced to prison by exploring alternative solutions outside the court system.⁵

While the concept has clearly been developed and used in the resolution of debt cases in a number of common law countries, Restorative Justice is a new model in the application of criminal law. As a form of restorative justice, its application requires the concept of legitimacy in the application of the law; as a result of this falsification, this concept must be included in the relevant decision-making laws. Pedagogy and Dynamics On the one hand, complex societies are undergoing penal regulation as quasi-partial legislation, which has a public face of the private face of relative law, which is also known and practiced as penal mediation as a means of resolving cases before trial.

In maintaining the balance between the development of prisoners and correctional students with the complexity of problems that arise in prisons, a more holistic and structured approach is needed. One of the proposed solutions is the application of the restorative justice approach. This approach places victims, perpetrators, and society as a whole as the main subjects in the conflict resolution process. Restorative justice emphasizes the restoration of disrupted relationships due to criminal acts and provides opportunities for perpetrators to take responsibility for their actions. As such, the process is expected to improve social relations and reduce the likelihood of re-offending in the future.

The implementation of restorative justice also requires strong support from various related parties, including law enforcement agencies, government agencies, and the community at large. The importance of restorative justice awareness needs to be instilled in the legal and social culture of society. Intensive education and socialization is needed so that people understand the principles of restorative justice and the benefits that can be obtained through its application. In addition, the active role of educational institutions, community organizations, and mass media is also needed to disseminate information and provide a correct understanding of restorative justice.

A correctional system that adopts a restorative justice approach is expected to make a significant contribution to addressing the problem of overcapacity in prisons.

⁵ Miftahudin Marliani, Siagian, "Dampak Over Crowded Terhadap Gangguan Keamanan Dan Ketertiban Di Lembaga Permasalahatan (Study Case Lapas Narkotika Kelas II A Jakarta)," *Jurnal Pendidikan Dan Konseling* 4, no. 6 (2022): 79, <https://core.ac.uk/download/pdf/322599509.pdf>.

By minimizing the number of inmates entering the prison system through social reconciliation and reconsolidation efforts, pressure on correctional facilities can be gradually reduced. In addition, by focusing on rehabilitation and social reintegration, the system is expected to reduce the overall crime rate in society. This will create a safer and more stable environment for all parties involved.

Major challenges are still faced in the implementation of restorative justice in prisons. It requires a strong commitment from various parties, including the government, law enforcement agencies and the community, to ensure that the principles of restorative justice can be applied consistently and effectively. In addition, there is a need to develop adequate infrastructure and human resources to implement this approach thoroughly. Only with hard work and strong collaboration can restorative justice become a sustainable solution to the problem of overcapacity in prisons and improve the correctional system as a whole.⁶

B. RESEARCH METHODS

The purpose of research methods is to study one or two legal phenomena by analyzing the consequences of these phenomena through the lens of certain methods, systems, and assumptions. The following methods are used in the research methodology in this study. This research is based on normative jurisprudence methodology research because the main focus of the study is on legal principles and theories, as well as various laws and regulations relevant to the subject matter. In this research paper, the research method is descriptive because it is used to provide an objective description of a phenomenon. With the aim of resolving the current dispute, namely about the legal protection given to music creators against unauthorized use of music for commercial purposes in the form of mp3 files, in accordance with decree number 28 of 2014.

⁶ F M Pratama and S N Maulidna, "Reformasi Sistem Penjara Untuk Mengatasi Overkapasitas Rumah Tahanan: Tinjauan Dari Sudut Pandang Hukum Nasional:(Studi Kasus Rumah Tahanan Kebon ...," *Doktrin: Jurnal Dunia Ilmu ...* 1, no. 4 (2023), <https://journal.widyakarya.ac.id/index.php/Doktrin-widyakarya/article/view/1467%0Ahttps://journal.widyakarya.ac.id/index.php/Doktrin-widyakarya/article/download/1467/1502>.

C. RESULTS AND DISCUSSIONS

1. Restorative Justice

A new concept of lawmaking that emerged from the community as a model for criminal lawmaking today is restorative justice. This concept is elaborated as a response to the existence of criminal law and punishment system that is considered not fulfilling the needs of society. Few cases in Indonesian national law introduce the concept of restorative justice. In accordance with the guidelines of the Attorney General's Guidelines Number 18 of 2021 concerning Completion of Case Handling of Criminal Acts of Narcotics Abuse through Rehabilitation with a Restorative Justice Approach. The AGO said that after the guidelines were implemented, many victims of drug abuse or drug users were carried out restorative justice, but prosecutors were asked not to play around in its application.⁷

After the implementation of the guidelines, there was a positive trend in the application of restorative justice in drug cases. Almost hundreds of victims of drug abuse have received their rights to be treated mentally and physically. The AGO emphasized that the application of restorative justice for drug users based on the Attorney General's Guidelines Number 18 of 2021 is carried out very strictly by looking at the amount of evidence, the qualifications of the suspect, the qualifications of the criminal offense and the article alleged, the element of guilt (*mens rea*) in the suspect, and a careful examination of the suspect through the results of an integrated assessment.⁸

In addition, there is even a special obligation by the Public Prosecutor to provide instructions to the Investigator, namely ensuring that the suspect is the last user (end user), as well as knowing the suspect's profile, including his lifestyle, financial transactions, including his colleagues and environment (know your suspect). Seeing offenders as victims of drug abuse who need serious treatment and to support the implementation of the Attorney General's Guidelines Number 18 of 2021, the Attorney General encourages local governments and law enforcement to collaborate in establishing rehabilitation centers in each province and district / city. This is a very serious effort for humanist law enforcement.

⁷ Bunga Roswari, Sukmareni, and Syaiful Munandar, "Penerapan Restorative Justice Oleh Kejaksaan Negeri Pasaman Terhadap Pelaku Tindak Pidana Penyalahgunaan Narkotika," *UNES Law Review* 6, no. 1 (2023): 953-65, <https://review-unes.com/index.php/law/article/view/772>.

⁸ Kejagung: Penerapan Restorative Justice bagi Pemakai Narkoba Jangan Main-main" selengkapnya <https://news.detik.com/berita/d-6590820/kejagung-penerapan-restorative-justice-bagi-pemakai-narkoba-jangan-main-main>.

It is known that restorative justice is a new concept of thought that has developed in case settlement as a pattern of modern legal thinking. Ketut said a number of parties responded positively to the Attorney's Office's breakthrough on the settlement of criminal cases at the prosecution level with the concept of fast, precise, simple, and effective in accordance with the Criminal Procedure Code. Drug addicts and victims must have a foundation for healthy growth and integration into society, in accordance with the requirements of Article 54 of the UN Charter on the Rights of the Child. Restorative justice is not this form of rehabilitation. The basis for determining whether or not to enter drug treatment is determined by Article 103 of the Narcotics Law, but they can also decide to bargain as stated in Article 134 of the Narcotics Law. The rehabilitation period is also known as the education period. This is because rehabilitation is clearly part of the law.⁹

Detoxification is in the right to health of drug addicts is one form. From a philosophical standpoint, restorative justice and rehabilitation complement each other; their common goal is to help members of society become productive members of society and become drug-free. Therefore, the restorative approach to gun control is better understood from a philosophical standpoint through restorative justice as the obligation of a state to improve the conditions of its citizens and ultimately the victims of its own wrongdoing.¹⁰

The function of service and orientation as a process of rehabilitation and reintegration of high-risk prisoners into society is to reduce the possibility of recidivism, where prisoners have the opportunity to commit further offenses. This is exemplified in the case of Freddy Budiman, who initially worked as a pickpocket but then became a drug dealer, repeatedly going in and out of prison until finally becoming a major drug dealer which led to the death penalty.¹¹

The restorative justice approach to drug abuse cases considers a deeper human dimension compared to the general application of law that focuses more on punishment. This approach, which is recovery-oriented, offers a more comprehensive way of dealing with offenders who are also victims of a larger and more complex situation, namely the drug trade. Through restorative justice, there

⁹ M Khoirul Anam, "Badan Narkotika Nasional Kota Mojokerto," 2022, 13-26.

¹⁰ Satria Nenda Eka Saputra and Muridah Isnawati, "Overcrowding Lembaga Pemasyarakatan (Lapas) Dalam System Pemidanaan Di Indonesia," *Pagaruyuang Law Journal* 6, no. 1 (2022): 52-70, <https://doi.org/10.31869/plj.voio.3822>.

¹¹ Anindya Dwita and Mohammad Zamroni, "Jurnal Hukum Dan Etika Kesehatan," *Jurnal Hukum Dan Etika Kesehatan* 1, no. September (2021): 46-64.

is an attempt to not only restore the individual, but also repair social relationships that have been damaged by involvement in drugs.¹²

Furthermore, in the context of substance abuse, restorative justice tries to focus on the root causes that lead individuals to engage in such abuse. These include factors such as poverty, unemployment, social injustice, and limited access to education and healthcare. By addressing these issues, restorative justice not only seeks to restore the individual, but also contribute to broader social change that can reduce the incidence of drug abuse in the future.¹³

In practice, this approach requires collaboration between various stakeholders, including government agencies, non-government organizations, and the general public. Each of these parties has an important role in supporting perpetrators and victims in their recovery process. For example, community organizations can provide social and economic support, while government agencies can provide mental health and rehabilitation services. The main challenge in implementing restorative justice in drug cases is to ensure that all parties involved accept the approach and are willing to work together. The biggest concerns often relate to whether restorative justice can truly deliver justice for victims, and whether the wider community can accept rehabilitated offenders back into society. This requires ongoing dialog and education to the community about the benefits and processes of restorative justice.¹⁴

Although restorative justice offers many benefits, more research and policy development is needed to assess its overall effectiveness in the drug context. In particular, it is important to evaluate the extent to which restorative justice can be integrated into the existing legal system and how it can operate alongside traditional law enforcement methods that are more punishment-oriented. This will ensure that restorative justice is not only theoretical but also practical and effective in its application in society.¹⁵

¹² Putri Maiza, "The Effort to Reduce Over Capacity in Correctional Facilities through Social Work Alternative Punishment," *Ius Poenale* 2, no. 2 (2022): 1.

¹³ Tofik Yanuar Chandra, Joko Sriwidodo, and M.S. Tumanggor, "Rehabilitation of Narcotic Addictives: An Overview of Implementation and The Effort by Restorative Justice," *Krtha Bhayangkara* 17, no. 3 (2023): 465-80, <https://doi.org/10.31599/krtha.v17i3.2427>.

¹⁴ Cok Satrya Aditya and Ani Purwanti, "Implementation of Sanctions against Addictive and Narcotic Abuse Perspective Restorative Justice," *Polit Journal Scientific Journal of Politics* 3, no. 1 (2023): 32-37, <https://doi.org/10.33258/polit.v3i1.847>.

¹⁵ Darsono Sitanggang, Lagat Parroha Patar Siadari, and Dahlan Dahlan, "Juridical Analysis of The Application of Restorative Justice in Case of Narcotics Abuse in The Directorate of Drugs, Polda Kepri,"

2. Social Reintegration

Rehabilitation is a recovery process for drug addicts, including addicts, abusers and victims of abuse, both medically and socially to restore them to become capable and useful citizens for the community. Rehabilitation is a form of alternative punishment given to drug addicts under certain conditions. The determination of rehabilitation is carried out by law enforcement officials and authorized organizations by forming an Integrated Assessment Team (TAT) consisting of doctors, psychologists, the National Narcotics Agency (BNN), the Prosecutor's Office, and the Ministry of Law and Humanity (Kemenkumham). At the request of investigators, this team analyzes the role of a person arrested as an addict, abuser, or victim of drug abuse.¹⁶

There are several differences from the analysis of each role in drug use, namely narcotics addicts are people who use or abuse narcotics and are in a state of dependence on narcotics, both physically and psychologically. A drug abuser is a person who uses drugs without the right or against the law. When a person continuously abuses narcotics, then the person will be in a state of dependence on narcotics, both physically and psychologically and Victims of Drug Abuse, is someone who suffers from dependence caused by drug abuse (Narcotics, Psychotropic and other Adaptive Substances including Liquor) either of their own accord or because of the encouragement or coercion of others.

Some types of cases that can be handled with a restorative justice approach include cases involving juvenile offenders through the diversion mechanism regulated in the SPPA, cases of light maltreatment as above, monetary crimes such as theft, embezzlement, and fraud where the value of the victim's loss is not too large and the perpetrator can still try to provide compensation to the victim.¹⁷ Drug addicts are no exception, as they are victims of drug trafficking networks and make up the largest population in prisons. Implementation can be done through judicial decisions and for prisoners through the Directorate General of Corrections'

International Journal of Educational Review, Law And Social Sciences (IJERLAS) 3, no. 1 (2023): 1-10, <http://radjapublika.com/index.php/IJERLAS/article/view/479>.

¹⁶ Yoga Pangestu and Mitro Subroto, "Pengaruh Pemberian Asimilasi Di Rumah Terhadap Penekanan Angka Overkapasitas Di Lembaga Masyarakatan Yoga," *Jurnal JPDK UniVersitas Pahlawan* 4 (2022): 2018-23, <http://journal.universitaspahlawan.ac.id/index.php/jpdk/article/view/4074>.

¹⁷ Mustaqim Almond and Eva Achjani Zulfa, "Optimalisasi Pendekatan Restorative Justice Terhadap Victimless Crime (Penyalahgunaan Narkoba) Sebagai Solusi Lapas Yang Over Kapasitas," *Jurnal Pendidikan Tambusai* 6, no. 1 SE-Articles of Research (2022): 8198-8206, <https://jptam.org/index.php/jptam/article/view/3684>.

program, which is currently also encouraging the granting of amnesty for users who have served a sentence for a certain period of time and who have undergone rehabilitation.¹⁸

Social reintegration for drug addicts through a restorative justice approach demands a comprehensive and integrated framework, which not only addresses the legal aspects of drug problems but also integrates social services, mental health, and community support. It is intended to restore individuals not only as members of society who no longer use drugs, but also as productive and contributing individuals. To achieve this, it is crucial that the reintegration program is designed to meet the specific needs of the individual, which may vary depending on their drug use history, mental health, socioeconomic status, and other factors.

One critical aspect of social reintegration is the understanding that it is often a long-term process that requires patience and significant resources. Effective reintegration programs should include vocational and educational training, mental health counseling and therapy, and support in finding and maintaining employment. All of this should take place in a supportive environment that encourages personal recovery and growth, and should be accessible to all individuals in need.¹⁹

Cooperation between government agencies and non-government organizations is also crucial in supporting the reintegration process. Government agencies can provide resources and supportive policies, while non-government organizations are often closer to the community and can provide more personalized and direct services to individuals. These partnerships can also include participation from family and friends of the individuals involved, all of whom can provide necessary emotional support during the reintegration process.²⁰

Social reintegration through restorative justice requires an impartial and non-discriminatory approach. This means that there must be an effort to combat the stigma often attached to former drug users. Through education and advocacy, the general public can be invited to better understand the issues faced by addicts in

¹⁸ Anwar Sulaiman and Asmak Hosnah, "Analisis Penerapan Restorative Justice Dalam Kasus Tindak Pidana Ringan Sebagai Upaya Mengurangi Over Kapasitas Di Lembaga Pemasyarakatan," *Internasional Journal of Sociology, Policy and Law (IJOSPL)* 3, no. 2 (2022): 57-67.

¹⁹ Fakultas Hukum, Universitas Lampung, and Bandar Lampung, "E-ISSN: 2598-3105 P-ISSN:2723-2581 <Http://Jurnal.Fh.Unila.Ac.Id/Index.Php/Cepalo>" 6, no. 1 (2022): 74-85, <https://doi.org/10.2648/cepalo.v6no1>.

²⁰ Sri Indriawati, "Politics of Criminal Law in Implementing Restorative Justice Against Narcotics Addicts in the Criminal Justice System," 2022, <https://doi.org/10.4108/eai.16-4-2022.2320131>.

recovery and recognize them as individuals who have the potential to change and contribute back to society.

Measuring the success of a reintegration program should go beyond counting how many individuals successfully abstain from drugs; it should also assess how well the individual is able to maintain employment, social relationships, and mental health. Ongoing monitoring and evaluation is essential to tailor reintegration programs to meet the evolving needs of those in recovery as well as to ensure that restorative justice approaches can provide maximum benefit to individuals and society as a whole.²¹

At the community level, social reintegration also requires efforts to increase understanding and awareness of drug issues and provide positive support for individuals struggling to recover. This can be done through educational programs, awareness campaigns, and the provision of relevant community resources. With increased public understanding of the complexities of drug abuse and the importance of supporting recovery, stigma against former drug users can be reduced, and recovering individuals can be more easily accepted back into society without being judged. It is also important to strengthen social support networks for individuals undergoing reintegration. This could include peer support programs, support groups, and a network of volunteers who are willing to provide practical help and support to individuals in need. By having a strong support network, recovering individuals will feel more supported in their efforts to rebuild their lives and prevent returning to old habits.

Social reintegration programs should also pay attention to the psychosocial aspects of recovery. This means not only providing adequate mental health services, but also helping individuals rebuild confidence, self-esteem, and interpersonal skills that may have been affected by the drug abuse experience. By strengthening these aspects, individuals will be better equipped to overcome challenges and take on a positive role in society.

The sustainability of social reintegration requires ongoing support from various parties, including the government, non-governmental organizations, the private sector, and the general public. This means that it is important to build strong partnerships between various stakeholders and coordinate their efforts to create a supportive and inclusive environment for individuals recovering from drug abuse. By working together, we can create a better and more empathetic society for

²¹ Khalid Karim et al., "International Journal of Social HEALTH OUTCOME" 2, no. 3 (2006): 112-16.

all its members, including those who have gone through the experience of drug abuse.

D. CONCLUSION

The conclusion of this article is that restorative justice offers an alternative and innovative approach in dealing with the problem of overcrowding in prisons, particularly that caused by drug offenders in Solo City. This approach replaces the traditional punishment paradigm with a focus on rehabilitation, reconciliation, and active participation of drug users in the recovery process. Restorative justice not only has the potential to reduce overcrowding in prisons by providing alternatives to detention, such as community-based rehabilitation programs and electronic monitoring, but also strengthens the criminal justice system by offering a more humane and sustainable solution to the drug problem. Through the implementation of restorative justice, drug offenders are provided with opportunities for rehabilitation, both medically and socially, for more effective reintegration into society. This approach not only helps to reduce the burden on correctional institutions but also supports the recovery of individuals as productive and useful citizens. Thus, restorative justice provides new hope in handling the problem of drug abuse and prison overcrowding, in line with the goal of fostering prisoners to become individuals who are aware of their mistakes, improve themselves, and not repeat criminal acts in the future.

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