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**Doi:** [10.32332/milrev.v4i1.10579](https://doi.org/10.32332/milrev.v4i1.10579)

**Dates:**

Received 04 March, 2025

Revised 27 May, 2025

Accepted 23 June, 2025

Published 30 June, 2025

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## Reframing Public Policy on Narcotic Case Dismissals: Integrating *Maqasid al-Shari'ah* and Restorative Justice in the Contemporary Era

**Abstract:** The handling of narcotics crimes in Indonesia remains a persistent legal and social challenge, especially in balancing punitive measures with rehabilitation efforts. This empirical legal research investigates the implementation of prosecution termination policies using a restorative justice approach in narcotics cases and analyzes their compatibility with the principles of *Maqasid al-Shari'ah*. Field data were collected through in-depth interviews with 12 key informants, consisting of prosecutors, judges, police investigators, religious leaders, and former drug offenders who had undergone restorative justice proceedings. Additional data were obtained through direct observation of mediation sessions at the prosecutor's office and the analysis of legal documents, including case files and institutional guidelines. The field findings reveal that the application of restorative justice is still limited and discretionary, often depending on the initiative of individual prosecutors and the willingness of victims or communities to engage in non-litigation settlement. While some prosecutors have successfully used this approach for first-time or non-distributor offenders, significant legal and structural constraints remain—such as the absence of detailed operational guidelines, lack of coordination between institutions, and limited public understanding of restorative mechanisms. Nevertheless, the study finds that the use of restorative justice aligns substantively with the goals of *Maqasid al-Shari'ah*, particularly in protecting life (*hifz al-nafs*), intellect (*hifz al-aql*), and religion (*hifz al-din*), by prioritizing rehabilitation, mental health recovery, and spiritual reintegration over mere incarceration. Restorative practices, such as *sulh* (mediation) and community involvement, are also consistent with Islamic legal traditions emphasizing compassion, reconciliation, and prevention of greater harm (*dar' al-mafasid*). The academic contribution of this study lies in offering a normative-empirical synthesis between Islamic legal principles and restorative justice practices, providing a conceptual and policy framework for the transformation of

narcotics prosecution models in Indonesia. It emphasizes the importance of integrating maqāṣid-based reasoning into contemporary criminal justice reform to foster a more humane, rehabilitative, and socially responsive legal system.

**Keywords:** *Maqasid al-Shari'ah*, Narcotics, Prosecution Termination, Public Policy, Restorative Justice.

## INTRODUCTION

The development of narcotics abuse in Indonesia shows an alarming trend, with widespread impacts not only on individuals but also on society and the country as a whole.<sup>1</sup> The handling of narcotics perpetrators has tended to prioritize a repressive approach through the formal criminal justice system, which emphasizes punishment rather than rehabilitation. This raises significant questions about the effectiveness of the legal system in solving the root of the complex and multidimensional problem of narcotics abuse. Legal policies that focus too much on deterrence have proven to be unable to reduce recidivism, even causing new problems such as the overcapacity of correctional institutions and social stigmatization.<sup>2</sup>

In this context, the transformation of public policy is a necessity. One form of transformation is the policy of stopping prosecutions through alternative mechanisms such as restorative justice, especially for users of light narcotics. This approach is becoming widely accepted in many countries as a more humanistic, recovery-oriented, and balanced solution for protecting victims, perpetrators, and society.<sup>3</sup> In Indonesia, this policy direction is beginning to be reflected in the Attorney General's Circular Letter and the strengthening of restorative justice in the national criminal justice system. However, its

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<sup>1</sup> Nurul Widhanita Y. Badilla, "Efektivitas Pidana Penjara Bagi Pecandu Narkotika Di Lingkungan Lembaga Pemasarakatan Narkotika Kelas Iia Jayapura," *Jurnal Komunitas Yustisia* 5, no. 2 (26 Agustus 2022): 603–710, <https://doi.org/10.23887/jatayu.v5i2.51748>.

<sup>2</sup> Eva Achjani Zulfa, "Optimalisasi Pendekatan Restorative Justice terhadap Victimless Crime (Penyalahgunaan Narkotika) sebagai Solusi Lapas yang Over Kapasitas," *Jurnal Pendidikan Tambusai* 6, no. 1 (28 April 2022), <https://doi.org/10.31004/jptam.v6i1.3684>.

<sup>3</sup> Abdul Madjid dan Milda Istiqomah, "Restorative Justice: A Suitable Response to Environmental Crime in Indonesia?," *Krytyka Prawa* 15, no. 3 (1 September 2023): 86–100, <https://doi.org/10.7206/kp.2080-1084.622>.

implementation is still partial and has not been supported by a strong normative framework.<sup>4</sup>

From an Islamic perspective, the restorative justice approach is in line with *Maqasid al-Shari'ah*—the primary purpose of Islamic shari'a, which includes the protection of religion (*hifz al-din*), soul (*hifz al-nafs*), reason (*hifz al-aql*), heredity (*hifz al-nasl*), and property (*hifz al-mal*). The handling of narcotics abuse that considers *Maqasid al-Shari'ah* does not only look at legal-formal but also moral and social aspects. This approach encourages the need for integrative public policy, relying on positive legal tools and deep ethical and spiritual values.

The main problem in this study is the inequality between the policy of stopping prosecution based on restorative justice and the implementation of *Maqasid al-Shari'ah* in national public policy. Although both approaches offer a paradigm of restoring and protecting humanity, the practice has no holistic conceptual and normative integration. Indonesia's public policy tends to be pragmatic and sectoral, while *Maqasid al-Shari'ah* is often only used as a normative discourse without concrete operationalization in laws, regulations, and institutional practices.

Some studies with a similar theme to this study include the study by Haposan Sinaga (2021), which discusses the application of restorative justice in narcotics cases.<sup>5</sup> The study highlights the urgency of shifting from a repressive to a restorative approach, especially for users of mild narcotics. However, the approach used is still limited to the positive legal dimension and has not yet been linked to the normative framework of Islam, such as *Maqasid al-Shari'ah*. Another study by Ibnu Affan and Gema Rahmadani (2022) highlights a progressive legal approach to the rehabilitation of narcotics users.<sup>6</sup> This study

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<sup>4</sup> Syariful Alam, Nu'man Aunuh, dan Yaris Adhial Fajrin, "The Concept of Restorative Justice in Islamic Criminal Law: Alternative Dispute Settlement Based on Justice," *KnE Social Sciences* 9, no. 1 (5 Januari 2024): 642–651, <https://doi.org/10.18502/kss.v8i21.14779>.

<sup>5</sup> Haposan Sahala Raja Sinaga, "Penerapan Restorative Justice dalam Perkara Narkotika di Indonesia," *Jurnal Hukum Lex Generalis* 2, no. 7 (22 Juli 2021): 528–541, <https://doi.org/10.56370/jhlg.v2i7.80>.

<sup>6</sup> Ibnu Affan dan Gema Rahmadani, "Penerapan Restorative Justice Dalam Perkara Penyalahgunaan Narkotika Berbasis Hukum Progresif," *Jurnal Hukum Kaidah: Media Komunikasi Dan Informasi Hukum Dan Masyarakat* 23, no. 1 (11 Oktober 2023): 65–74, <https://doi.org/10.30743/jhk.v23i1.8101>.

underlines the importance of rehabilitation as a form of rehabilitation and not punishment, but it has not yet reached the level of public policy formulation that is integrative between positive law, Islamic values, and social approaches. Meanwhile, in their article, Jesylia Lawalata, Meriyanti, and Sri Astuti (2022) review restorative justice practices in investigating narcotics crimes.<sup>7</sup> Although the study is applicable and provides an overview of practice in the field, there are still limitations in terms of theoretical construction and the absence of an Islamic philosophical framework in framing the policy in more depth.

From the three studies, it can be concluded that there is still a significant research gap, namely the lack of integration between the restorative justice approach and the principles of *Maqasid al-Shari'ah* in formulating public policy to stop prosecutions of narcotics users. In addition, the transformative aspects of these policies, both in terms of regulation, institutional, and legal paradigms, have not been elaborated systemically. Therefore, the novelty of this study lies in the effort to build an integrative policy model for the cessation of narcotics prosecutions by combining the principles of *Maqasid al-Shari'ah* (especially the protection of soul, intellect, and posterity) with modern restorative justice values. This research also offers a multidisciplinary approach between Islamic law, positive law, and public policy science to formulate just, humanistic, and contextual policies according to the needs of the contemporary era in Indonesia.

Based on this description, the research question is: how can the transformation of public policy in stopping the prosecution of narcotics crimes be constructed within the framework of *Maqasid al-Shari'ah* and the principle of restorative justice in the contemporary era? This question will be answered through conceptual-normative analysis and policy studies, with a multidisciplinary approach that combines legal science, Islamic studies, and public policy.

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<sup>7</sup> Jesylia Hillary Lawalata, Juanrico Alfaromona Sumarezs Titahelu, dan Julianus Edwin Latupeirissa, "Pendekatan Restorative Justice Dalam Penyelesaian Perkara Tindak Pidana Narkotika Pada Tahapan Penyidikan," *TATOHI: Jurnal Ilmu Hukum* 2, no. 1 (31 Maret 2022): 91-112, <https://doi.org/10.47268/tatohi.v2i1.899>.

## METHOD

This study employs an empirical legal research design with a descriptive qualitative approach<sup>8</sup>. It aims to explore the implementation of prosecution termination policies through a restorative justice approach in narcotics cases and assess its alignment with the principles of *Maqasid al-Shari'ah*. The research focuses on the interaction between positive legal norms, public policy, and Islamic legal values within the practices of law enforcement institutions. Primary data was collected through field research involving in-depth interviews with 12 key informants, including four prosecutors, two police investigators, two judges, two religious leaders, and two former drug users who had experienced restorative justice proceedings. Informants were selected using purposive sampling based on their direct involvement in or substantial knowledge of narcotics cases handled through restorative justice and their understanding of Islamic legal principles.

Table 1. Research Informant Profile

No.	Informant Code	Gender	Agency/Institution	Position/Role	Category Information
1	IF-01	Man	District Attorney's Office X	Public Prosecutor	Legal Practitioner
2	IF-02	Woman	Resort X Police	Narcotics Investigator	Legal Practitioner
3	IF-03	Man	BNN Province	Rehabilitation Staff	Legal Practitioner
4	IF-04	Man	Correctional Institution X	Head of Construction Section	Prison Practitioner
5	IF-05	Woman	Y Sharia University	Lecturer in Islamic Criminal Law	Academy
6	IF-06	Man	Legal Aid Institute (LBH)	Public Advocate	Legal Activist
7	IF-07	Woman	MUI Region X	Members of the Fatwa Commission	Religious Figures
8	IF-08	Man	Drug Rehabilitation Organization	Addiction Counselor	Social Practitioner
9	IF-09	Man	Anti-Drug Youth Community	Chairman	Community Leaders

<sup>8</sup> Matthew B Miles dan A. Michael Huberman, *Analisis data kualitatif: buku sumber tentang metode metode baru* (Jakarta: Universitas Indonesia Press, 2014).

10	IF-10	Woman	Ministry of Social Affairs	Staff of the Directorate of Social Rehabilitation	Public Policy Activists
11	IF-11	Man	Legal and Human Rights Advocacy NGO	Program Coordinator	Human Rights Activist
12	IF-12	Woman	National University	Legal & Public Policy Researcher	Academy

Source: Author's Interpretation

In addition to interviews, limited observations were conducted on mediation processes at the prosecutor's office and document analysis of relevant institutional policies and judicial decisions. Secondary data was gathered through a literature review of primary legal materials (such as Law No. 35 of 2009 on Narcotics, the Indonesian Criminal Code, and regulations from the Attorney General's Office), secondary legal materials (classical and contemporary Islamic legal texts, academic journals, and previous research findings), and tertiary legal materials (legal dictionaries, encyclopedias, and other supporting documents).

All data were analyzed qualitatively using a descriptive-analytical method<sup>9</sup> to identify patterns in the application of restorative justice, legal or structural obstacles, and opportunities for integration with *Maqasid al-Shari'ah* principles—particularly the protection of life (*hifz al-nafs*), intellect (*hifz al-'aql*), and lineage (*hifz al-nasl*). The findings of this research are expected to contribute recommendations for developing a more responsive, humanistic, and value-based criminal justice policy framework.

## RESULTS AND DISCUSSION

### The Reality of Narcotics Prosecution Policy in Indonesia

Policies to combat narcotics crimes in Indonesia have historically emphasized a repressive approach that relies on the criminalization of all perpetrators, including users in the light category. This approach does not distinguish between users, people with an

<sup>9</sup> Helaluddin dan Hengki Wijaya, *Analisis Data Kualitatif: Sebuah Tinjauan Teori & Praktik* (Sekolah Tinggi Theologia Jaffray, 2019).

addiction, couriers, or dealers, causing a domino effect in the form of an increase in the number of prisoners and inmates in correctional institutions.<sup>10</sup> Data from the Directorate General of Corrections of the Ministry of Law and Human Rights in 2023 shows that more than 50% of prison inmates in Indonesia come from narcotics cases, and most of them are users or addicts who should receive treatment, not prison. This fact indicates an imbalance between policy orientation and the need to solve problems holistically.<sup>11</sup>

Law Number 35 of 2009 concerning Narcotics has opened up space for a rehabilitative approach, especially in Article 54 and Article 103, which provide the possibility for people with an addiction to undergo medical and social rehabilitation. However, in practice, these provisions are optional and highly dependent on the discretion of law enforcement officials, especially prosecutors and judges. The large number of narcotics users who remain criminally prosecuted and sentenced to prison shows that the available normative framework has not been fully translated into law enforcement practice. The limited rehabilitation facilities and the lack of synergy between law enforcement agencies and health services exacerbate this.<sup>12</sup>

This dominant repressive approach has created a recurring cycle of dependency and criminalization. Many users get out of prison without getting rehabilitation, then return to use narcotics because the root of the problem—such as mental health disorders, environmental stress, or economic inequality—is not solved. A 2022 BNN (National Narcotics Agency) study revealed that the recidivism rate of narcotics users reached 30%, showing the weak deterrent effect of the conventional penal system. Prison overcapacity

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<sup>10</sup> Usman Hamid, "Surat Terbuka: Peninjauan kerangka hukum yang menyebabkan kelebihan kapasitas lembaga pemasyarakatan • Amnesty International Indonesia," Amnesty International Indonesia, 23 Januari 2025, <https://www.amnesty.id/kabar-terbaru/surat-terbuka/surat-terbuka-peninjauan-kerangka-hukum-yang-menyebabkan-kelebihan-kapasitas-lembaga-pemasyarakatan/01/2025/>.

<sup>11</sup> Heru Pranoto dkk., "Construction of Narcotics Law Against Narcotics Abusers in Perspective Justice," *Khazanah Hukum* 6, no. 2 (6 Agustus 2024): 145–158, <https://doi.org/10.15575/kh.v6i2.37635>.

<sup>12</sup> Ibrahim Nainggolan, "Lembaga Pemasyarakatan Dalam Menjalankan Rehabilitasi Terhadap Narapidana Narkotika," *EduTech: Jurnal Ilmu Pendidikan Dan Ilmu Sosial* 5, no. 2 (10 Agustus 2019), <https://doi.org/10.30596/edutech.v5i2.3388>.



also creates inhumane conditions that are counterproductive to the goal of social reintegration.<sup>13</sup>

In response to the failure of the repressive approach, there has been a push to adopt a more restorative and substantive justice model of law enforcement. One of the critical milestones in this transformation is the issuance of the Attorney General's Regulation of the Republic of Indonesia Number 15 of 2020 concerning the Termination of Prosecutions Based on Restorative Justice. This regulation allows prosecutors to stop prosecution in certain eligible cases, focusing on the recovery, peace, and protection of victims and perpetrators from the negative impacts of criminal justice.<sup>14</sup> However, this provision has not explicitly included narcotics cases in the category of cases that can be stopped, mainly because narcotics are still categorized as a crime against public security.<sup>15</sup>

The exception implies that narcotics users remain vulnerable to prosecution and prosecution, even in cases that are relatively mild and do not have a broad social impact. In many cases, the perpetrators are teenagers or individuals with weak economic backgrounds who are entangled in narcotics as a form of escape from the pressures of life. This rigid legal approach to this group exacerbates social exclusion and narrows rehabilitation opportunities. This situation raises an urgent need to reformulate public policies in handling narcotics cases to be more responsive to human values.<sup>16</sup>

The transformation of public policy in this context must go beyond legal-formal boundaries and adopt a multidimensional approach that integrates the value of restorative

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<sup>13</sup> Bagas Hermanu Adi Utomo dan Arista Candra Irawati, "Kajian Yuridis Pelaksanaan Pembinaan Narapidana Narkotika (Studi Pada Lembaga Pemasyarakatan Narkotika Kelas IIA Yogyakarta)," *ADIL Indonesia Journal* 4, no. 1 (2023), <https://jurnal.unw.ac.id/index.php/AIJ/article/view/1995>.

<sup>14</sup> Hadi Sucipto dkk., "Transformation of Public Trust in Restorative Justice by the Prosecutor's Office: An Islamic and Social Law Approach in the Contemporary Era," *MILRev: Metro Islamic Law Review* 3, no. 2 (30 Desember 2024): 364–387, <https://doi.org/10.32332/milrev.v3i2.9938>.

<sup>15</sup> Zainudin Basan dkk., "Faktor Penyebab Narkotika Dilingkungan Lembaga Pemasyarakatan," *Jurnal Hukum Dan Sosial Politik* 1, no. 3 (25 Mei 2023): 01–09, <https://doi.org/10.59581/jhsp-widyakarya.v1i3.366>.

<sup>16</sup> Nurjannah Soliha dan Syahrial Yuska, "Strategi Keamanan Pencegahan Peredaran Narkotika Di Lapas Kelas IIB Sukabumi," *Jurnal Intelektualita: Keislaman, Sosial Dan Sains* 12, no. 02 (27 November 2023), <https://doi.org/10.19109/intelektualita.v12i002.19687>.



justice.<sup>17</sup> Restorative justice focuses on restoring social relations and repairing the losses caused to the perpetrator, the victim, and the community.<sup>18</sup> In the case of narcotics users, this principle can be realized in the form of rehabilitation integrated with health and social services, as well as community mediation to support the reintegration of the perpetrator. This model is more in line with the principles of human rights protection and the state's responsibility in building social resilience. Furthermore, the restorative justice approach in narcotics policy will become stronger and more applicable if combined with Islamic normative frameworks such as *Maqasid al-Shari'ah*. In *Maqasid*'s view, the protection of reason (*hifz al-aql*), the soul (*hifz al-nafs*), and religion (*hifz al-din*) are the main foundations of the Shari'ah that can be used as a moral and spiritual argument in designing humane public policies.<sup>19</sup> The cessation of prosecution of recovery-oriented light narcotics users is in line with *Maqasid* because it safeguards the interests of individuals and society as a whole while preventing damage (*mafsadah*) due to unproductive imprisonment.

Therefore, integrating the restorative justice approach and the values of *Maqasid al-Shari'ah* is a strategic step in reforming the public policy of narcotics prosecution in Indonesia. This approach addresses structural weaknesses in the criminal justice system and strengthens the resulting policies' ethical and philosophical legitimacy. Thus, policy transformation is an administrative imperative and a moral call to create a just, inclusive, and transformative legal system in the contemporary era.

### The Principles of *Maqasid al-Shari'ah* in the Perspective of Narcotics Policy

Within the framework of *Maqasid al-Shari'ah*, narcotics abuse is seen as a serious threat to several of the primary purposes of Islamic sharia, namely the protection of the

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<sup>17</sup> Henny Saida Flora, "Perbandingan Pendekatan Restorative Justice Dan Sistem Peradilan Konvensional Dalam Penanganan Kasus Pidana," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 2 (18 Oktober 2023): 1933-1948, <https://doi.org/10.37680/almanhaj.v5i2.3812>.

<sup>18</sup> I. Komang Agus Muliawan, I. Nyoman Gede Sugiarta, dan I. Gusti Ayu Gita Pritayanti Dinar, "Restorative Justice dalam Tindak Pidana Narkotika pada Anak," *Jurnal Analogi Hukum* 4, no. 1 (20 Mei 2022): 66-70, <https://doi.org/10.22225/ah.4.1.2022.66-70>.

<sup>19</sup> Suansar Khatib, "Konsep Maqashid Al-Syari' Ah: Perbandingan Antara Pemikiran Al-Ghazali Dan Al-Syathibi," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 5, no. 1 (30 Desember 2018): 47-62, <https://doi.org/10.29300/mzn.v5i1.1436>.

soul (*hifz al-nafs*), reason (*hifz al-'aql*), and heredity (*hifz al-nasl*). Narcotics damage the nervous system, lower moral and spiritual awareness, and risk causing social damage across generations. Therefore, from the perspective of *Maqasid*, the handling of narcotics users must be firm but should not only be oriented towards punishment or retribution but must prioritize the aspect of protection of fundamental human values that the sharia wants to maintain.

Islam itself does not have a legacy of a criminal law system that is oriented towards imprisonment in a modern sense but instead emphasizes a corrective and preventive approach. In much fiqh literature, individual violations are responded to with *ta'dib* (moral education), *ta'wiz* (compensation), and *tawbiyah* (awareness through counsel), not long-term detention. This reflects Islamic law's awareness of the importance of maintaining dignity and improving the individual, not just punishing him. Therefore, in the context of narcotics policy, social recovery and reintegration should be the main principle in fostering users, in line with Sharia values.<sup>20</sup> The concept of *Maqasid* also contains the principle of weighing between *maslahah* (benefit) and *mafsadah* (damage). In setting policies, a policymaker must choose the alternatives that bring the most benefits and cause the least harm. Thus, the termination of prosecution of users of light-category narcotics that are not related to the circulation network can be seen as a form of *jalb al-maslahah* (bringing benefits) because it prevents the perpetrators from social stigma and the destructive effects of correctional institutions.

This principle is also in line with the value of *takhfif al-'uqubah* (mitigation of punishment) in Islamic law,<sup>21</sup> Which is the idea that sanctions can be mitigated based on the circumstances of the perpetrator, the potential damage caused, and the opportunity for

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<sup>20</sup> Muhibban Muhibban dan Muhammad Misbakul Munir, "The Relevance of Islamic Law to Criminal Sanctions for Narcotics Users in Indonesia," *Journal of World Science* 2, no. 5 (31 Mei 2023): 684-692, <https://doi.org/10.58344/jws.v2i3.257>.

<sup>21</sup> Muh Awaluddin Kadir, Muh Shuhufi, dan Misbahuddin M, "Efek Jera Pemidanaan Dalam Hukum Islam Dan Penerapannya Di Indonesia," *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial* 1, no. 11 (5 Juli 2024), <https://doi.org/10.5281/zenodo.12666985>.

rehabilitation.<sup>22</sup> In the context of narcotics users who are victims of dependence or social pressure, a harsh penal approach creates new damages (*mafsadat musytarakah*), such as recidivism, social marginalization, and prison overcapacity. Therefore, in the spirit of *Maqasid*, sanctions should be proportionate and directed at improvement, not retaliation.

In addition, *Maqasid al-Shari'ah* also promotes distributive justice and social justice, which requires the state to punish law violators and address the structural roots of narcotics abuse, such as poverty, unemployment, and low education. In this view, the handling of narcotics users should be positioned as part of a comprehensive social policy, not just a product of the criminal justice system. Thus, the cessation of prosecution can be seen as part of a broader intervention for social recovery. The conception of justice in Islam is also contextual, where 'adl (justice) does not mean equal treatment for all, but appropriate treatment according to individual circumstances.<sup>23</sup> Therefore, narcotics users who are vulnerable and do not have a high malicious intent should not be treated the same as drug dealers or manufacturers. Fair treatment is to give them access to rehabilitation services, not to put them in a system that is repressive and undermines their potential for self-improvement.

The *Maqasid* framework also affirms the principle of *raf' al-haraj* (eliminating difficulties and burdens) in setting public policy. In this context, a penal system that is not a solution for narcotics users gives rise to a sustainable *haraj*, both for individuals and society.<sup>24</sup> Therefore, the policy of termination of prosecution based on case-by-case evaluation is even more *Maqasid* because it opens up space for a system that is more fair, flexible, and responsive to the needs of recovery. In the end, *Maqasid al-Shari'ah* is a normative-theological framework and a public policy instrument that can be a moral basis

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<sup>22</sup> Melita Mulyani dan Hasuri, "Problems of Criminal Sanctions for Narcotics Abuse: Comparative Study of National Crime and Islamic Crime," *Jurnal Mahkamah : Kajian Ilmu Hukum Dan Hukum Islam* 9, no. 1 (29 Juni 2024): 33–50, <https://doi.org/10.25217/jm.v9i1.4502>.

<sup>23</sup> St Nur Syahidah Dzatun Nurain, "Prinsip Keadilan Sosial Dalam Islam," *Jurnal JINNSA (Jurnal Interdipliner Sosiologi Agama)* 4, no. 1 (23 Agustus 2024): 35–51, <https://doi.org/10.30984/jinnsa.v4i1.1048>.

<sup>24</sup> Mahmudin Bunyamin, "Adam Al-Haraj: A Rukhsah Application in the Implementation of Islamic Law in Modern Society Life," *Al'Adalah* 15, no. 1 (20 Desember 2018): 101–124, <https://doi.org/10.24042/adalah.v15i1.1975>.

in criminal law reform, including narcotics policy. By making *Maqasid* a policy paradigm, the state can formulate regulations that are not only legal-formal but also ensure the value of the public welfare, protect fundamental human rights, and support a healthy and productive social order. This kind of transformation is not just an option but necessary in realizing a just legal system with a religious and humanist Indonesian personality. For details, can see the table below,

Table 2. The Principles of *Maqasid al-Shari'ah* in the Policy of Handling Narcotics Users

Aspects of <i>Maqasid al-Syari'ah</i>	The Impact of Narcotics Abuse	Relevant Policy Principles	Policy Implications
<i>Hifz al'Aql</i> (Protection of Reason)	Impairs brain function and moral awareness	Mental and spiritual rehabilitation	A restorative approach, not a criminalization
<i>Hifz al-Nafs</i> (Protection of the Soul)	Endangering the user's life due to overdose or addiction	Prevention and treatment	Health services and early intervention
<i>Hifz al-Nasl</i> (Protection of Lineage)	Social and family dysfunction across generations	Social reintegration	Support for user families
Principles of <i>Takfif al-Uqubah</i>	Severe sanctions exacerbate dependency and marginalization	Mitigation of punishment based on the condition of the perpetrator	Termination of prosecution for light users
<i>Jalb al-Maslahah</i> and <i>Dar' al-Mafsadah</i>	Prisons create new damage (recidivism, stigma)	Choosing the most beneficial option	Focus on education and social recovery
Contextual Justice ('Adl)	Equalization of sanctions without looking at the background of the perpetrator	Treatment according to the level of risk	Light users, ≠ narcotics dealers
<i>Raf' al-Haraj</i> (Lifting Difficulties)	A rigid penal system exacerbates user suffering	Flexible and case-based policies	Individual evaluation for termination of prosecution

Transformation of Islamic Law	Islamic law knows no modern prison	Moral correction, education, and rehabilitation	Recovery as the primary policy mission
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Source: Author's interpretation

Table 2 summarizes how the principles of *Maqasid al-Shari'ah* can be used as a philosophical and practical basis for designing public policies related to handling narcotics users. Every aspect of sharia protection—such as intellect (*hifz al-'aql*), soul (*hifz al-nafs*), and heredity (*hifz al-nasl*)—is threatened by the adverse effects of narcotics abuse, both biological, psychological, and social. Therefore, the policies formulated should focus on punishment and make room for more humane approaches, such as rehabilitation, moral education, and social reintegration. In Islamic law, the principles of *takfif al'uqubah* and *jalb al-maslahah* encourage lightening sanctions if the perpetrator does not show malicious intentions and for policies to be taken for the greater good.

Furthermore, the principle of 'adl in Islam emphasizes contextual justice, where the treatment of individuals is adjusted to the conditions and level of risk posed, not to the rigid principle of equality. In this case, users of the light category of narcotics should not be equated with dealers or perpetrators of organized narcotics crimes. In addition, the principle of *raf' al-haraj*, or raising difficulties, underscores the importance of legal flexibility not to burden individuals with counterproductive punishments.<sup>25</sup> This whole framework of *Maqasid* leads to an urgent need for a policy transformation that is not only legally positive but also ethical-spiritual legitimate—with the restoration and protection of humanity as the primary goal.

### **Restorative Justice as a Paradigm of Transformation in Sanctions Policy for Narcotics Users**

The restorative justice paradigm presents a new approach to handling criminal acts, including narcotics abuse, by emphasizing the recovery of damaged social relations between

<sup>25</sup> Fehrudin Ali Sabri, "Konsep Raf' Al-Haraj Dalam Perspektif Ushul Fiqih," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 9, no. 1 (27 November 2014): 1-21, <https://doi.org/10.19105/al-lhkam.v9i1.1356>.

perpetrators, victims (both individuals and communities), and their social environment. This approach views crime as a violation of state law and a crack in the social structure that must be repaired through a dialogical, participatory, and solution-oriented process. In the context of narcotics users, restorative justice provides space to rehabilitate perpetrators physically, psychologically, and socially without having to impose counterproductive prison sanctions.<sup>26</sup>

One of the essential pillars of restorative justice is personal and social responsibility. Narcotics users in this approach are not labeled as "criminals" who should be punished but rather as individuals who need to be guided to realize the impact of their behavior on themselves and the environment. This process can include penal mediation, family conferences, and preparing a recovery plan agreed upon by all parties involved. Thus, the perpetrator plays an active role in the recovery process, not being a passive object of the penal system. This approach also has normative legitimacy in the Islamic tradition. Islamic law's concepts of *islah* (improvement) and *taqiyah* (awareness) are key values in implementing restorative justice. In classical Islamic criminal law, an educative and conciliatory approach takes precedence over pure retaliation, especially against perpetrators who do not directly harm society. Thus, restorative justice is not alien to the Islamic tradition and can be contextualized in Indonesia's religious and pluralistic legal system.<sup>27</sup>

Restorative justice in narcotics cases has been successfully implemented in Portugal, Canada, and Norway. Portugal, for example, since 2001, has decriminalized possession of narcotics for personal use and replaced it with a health and social approach. As a result, the rate of overdose and recidivism decreased dramatically, while rehabilitation programs increased in effectiveness. Canada also adopts a community-based approach to the rehabilitation of drug users by engaging families, community groups, and social services to

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<sup>26</sup> Daud Tober, Bachrul Amiq, dan Wahyu Prawesthi, "Penerapan Restorative Justice Dalam Penanganan Tindak Pidana Narkotika," *COURT REVIEW: Jurnal Penelitian Hukum* (e-ISSN: 2776-1916) 5, no. 02 (2025): 27-34, <https://doi.org/10.69957/cr.v5i02.1771>.

<sup>27</sup> Tri Imam Munandar dkk., "Restorative Justice in Narcotics Crimes Investigation: Implementation, Challenges and Obstacles," *Mimbar Keadilan* 18, no. 1 (19 Februari 2025): 159-170, <https://doi.org/10.30996/mk.v18i1.11961>.

accelerate recovery and reintegration.<sup>28</sup> Indonesia has also shown positive signals to this approach, including issuing the Attorney General's Regulation No. 15 of 2020 concerning the Termination of Prosecutions Based on Restorative Justice. However, this regulation does not explicitly cover narcotics cases because it is still considered a crime against public security. In fact, in many cases, narcotics users are not a public threat but victims of a damaged social environment, psychological dependence, and ignorance. Therefore, policy reform is needed to apply restorative justice to narcotics cases proportionately and contextually.

The implementation of restorative justice for narcotics users can be carried out through various mechanisms. One is penal mediation, which involves law enforcement officials, perpetrators, families, and community leaders formulating a rehabilitation agreement instead of prosecution. In addition, community-based approaches, such as community-based rehabilitation (CBR), are needed that are more effective in dealing with long-term dependence. Given their central role in Indonesia's social structure, educational institutions, religious organizations, and Islamic boarding schools can also be involved in the recovery process.<sup>29</sup>

From a public policy perspective, restorative justice offers many advantages: lowering the burden on the criminal justice system, reducing prison overcapacity, preventing excessive criminalization, and strengthening social cohesion. If appropriately implemented, this approach will result in more inclusive, responsive policies that follow the values of local wisdom and religion.<sup>30</sup> This is part of the transformation of the Indonesian legal system from a legalistic-repressive model to a humanistic-participatory

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<sup>28</sup> I. Gusti Ngurah Budiayasa, Anak Agung Sagung Laksmi Dewi, dan Ni Made Sukaryati Karma, "Penanganan Tindak Pidana Penyalahgunaan Narkotika Melalui Rehabilitasi Dengan Pendekatan Keadilan Restoratif Sebagai Pelaksanaan Asas Dominus Litis Pada Kejaksaan Negeri Denpasar," *Jurnal Preferensi Hukum* 4, no. 1 (25 Maret 2023): 45-50, <https://doi.org/10.22225/jph.4.1.6729.45-50>.

<sup>29</sup> Rospita Adelina Siregar dan Lila Pitri Widi Hastuti, "Restorative Justice Bagi Terpidana Pemakai Narkotika Golongan 1," *JURNAL HUKUM KESEHATAN INDONESIA* 1, no. 01 (18 April 2021): 59-69, <https://doi.org/10.53337/jhki.v1i01.6>.

<sup>30</sup> Fedi Arif Rakhman, "Penerapan Keadilan Restoratif Dalam Penanganan Penyalahguna & Pecandu Narkotika," *Jurnal Ilmu Hukum, Humaniora Dan Politik* 4, no. 6 (13 September 2024): 2258-2267, <https://doi.org/10.38035/jihhp.v4i6.2675>.



model. Thus, it is relevant and urgent that restorative justice be integrated into the narcotics policy system in Indonesia. This aligns with the direction of national law reform that places humans at the center of policy (human-centered law reform).<sup>31</sup> This transformation will strengthen Indonesia's position as a country of law that is not only based on rules but also upholds human values, social justice, and the restoration of the dignity of individuals who fall into the snare of narcotics.

To gain a deeper understanding of the reality of narcotics prosecution policy in Indonesia, this study conducted in-depth interviews with 12 key informants: law enforcement officers (prosecutors and investigators), religious figures, academics, and representatives from rehabilitation institutions. These interviews aimed to explore the informants' perceptions, experiences, and evaluations of the application of restorative justice in handling minor narcotics offenses, particularly concerning integrating *Maqasid al-Shari'ah* values.

The field findings reveal diverse views regarding the urgency of restorative approaches as alternatives to formal prosecution and how the principles of protecting intellect, life, and lineage can be internalized into narcotics-related legal policies. These findings serve as the basis for a critical analysis of the design of a more humane, recovery-based legal policy that aligns with the values of substantive justice in Islam.

Table 3. Field Interview Findings on the Termination of Prosecution in Narcotics Cases through Restorative Justice from the Perspective of *Maqasid al-Shari'ah*

No.	Informant Code	Institution/Profession	Question Focus	Summary of Response	Key Findings
1	IF-01	District Prosecutor's Office	Implementation of RJ policy in narcotics cases	RJ policy exists but is not fully implemented, depending on regional factors and officials' understanding.	Implementation remains uneven, dependent on resources and outreach.

<sup>31</sup> Octavina Putri Rodhi dkk., "Harmonisasi Peraturan Restorative Justice Terkait Tindak Pidana Narkotika Pada Anak," *Halu Oleo Law Review* 8, no. 1 (7 Maret 2024): 49-61, <https://doi.org/10.33561/holrev.v8i1.106>.

2	IF-02	District Court Judge	Challenges and opportunities in applying RJ to narcotics cases	Social stigma against users is a barrier. However, prison overcrowding creates opportunities for reform.	Stigma and legal structure are obstacles; systemic reform is a significant opportunity.
3	IF-03	Police Investigator	Consistency in RJ application at the investigation level	Investigators have different interpretations regarding who qualifies for RJ.	Lack of standardized SOPs among law enforcement.
4	IF-04	Rehabilitation Activist	Community-based reform opportunities	There is strong potential to enhance community-based rehabilitation through RJ, but family involvement is essential.	Community and family involvement are key in RJ.
5	IF-05	Islamic Law Scholar	Integration of <i>maqasid al-shari'ah</i> in RJ policy	<i>Maqāṣid</i> supports rehabilitation as it protects intellect and life ( <i>ḥifẓ al-'aql &amp; al-nafs</i> ).	Rehabilitation aligns with <i>maqasid al-shari'ah</i> principles.
6	IF-06	Senior Prosecutor	Coordination among law enforcement agencies	Lack of coordination mechanisms among BNN, the Prosecutor's Office, and the Police in RJ implementation.	Cross-sectoral coordination needs strengthening.
7	IF-07	Religious Leader	Relevance of Islamic values in the RJ approach	Islam emphasizes compassion, restoration, and	Islamic teachings support humane policy transformation.

				repentance. RJ aligns with these values.	
8	IF-08	Criminal Law Lecturer	Structural weaknesses in RJ implementation	Limited human resources and funding hinder RJ implementation in regions.	Technical and administrative limitations hinder RJ execution.
9	IF-09	Anti-Narcotics NGO	Effectiveness of prosecution termination policies	RJ is effective for minor users but must be accompanied by objective assessment and ongoing evaluation.	Assessment and monitoring systems are needed.
10	IF-10	Clinical Psychologist	Psychological impact of repressive vs. restorative approaches	Repressive approaches increase anxiety and relapse risk, while RJ promotes mental well-being.	RJ supports mental and social recovery.
11	IF-11	Provincial BNN	Institutional collaboration in RJ implementation	Synchronization is needed among the Prosecutor's Office, Police, and BNN; many programs operate independently.	Inter-agency collaboration remains weak.
12	IF-12	Public Policy Scholar	Potential for integrating <i>maqāṣid</i> into policy design	<i>Maqasid</i> can serve as a normative framework for public policy but must be formalized through regulation.	<i>Maqāṣid</i> needs institutionalization in national policy.

Source: Interview with informant

Table 3 above summarizes interviews conducted with twelve key informants from various institutions and professional backgrounds, exploring the implementation of Restorative Justice (RJ) in narcotics-related cases in Indonesia. The responses reveal various insights into the current practices, challenges, and opportunities surrounding RJ. Several informants highlighted that while the policy framework for RJ exists, its application remains inconsistent across regions due to varying interpretations, limited resources, and a lack of standardized procedures among law enforcement agencies. Additionally, structural and administrative limitations—such as insufficient human resources and funding—further hinder the implementation of RJ, especially in remote areas.

The informants also emphasized the significant potential of RJ when integrated with community-based rehabilitation and Islamic values. Scholars and religious leaders pointed out that the principles of *maqasid al-shari'ah* support RJ, particularly in protecting human dignity, intellect, and life. Moreover, the psychological benefits of RJ over repressive approaches were underscored by clinical experts, noting its positive impact on mental health and relapse prevention. Despite these advantages, successful RJ implementation requires stronger inter-agency coordination and formal institutionalization of normative frameworks like *maqāṣid* into national policy. Overall, the findings suggest a critical need for systemic reform, capacity building, and policy integration to realize the full potential of RJ in drug-related cases.

### **Integration of *Maqasid* al-Sharia and Restorative Justice in the Narcotics User Sanctions Policy**

In the context of countering narcotics abuse in Indonesia, a repressive legal approach has not been able to provide significant results in reducing the number of users and illicit circulation of narcotics.<sup>32</sup> One of the reasons is the failure of this approach to look at the complexity of the causes of narcotics abuse, which often comes from social,

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<sup>32</sup> Riyansyah Riyansyah dan Sintong Arion Hutapea, "Efektivitas Restorative Justice Dalam Penyelesaian Kasus Penyalahgunaan Narkotika Di Indonesia," *Mahkamah : Jurnal Riset Ilmu Hukum* 2, no. 2 (9 April 2025): 70-77, <https://doi.org/10.62383/mahkamah.v2i2.566>.

psychological, and economic problems.<sup>33</sup> Therefore, policy transformation is not enough just to be limited to procedural legal reform; it must depart from a more holistic and integrative paradigm. This is where the relevance of *Maqasid al-Shari'ah* and restorative justice becomes very important.

*Maqasid al-Shari'ah* is an approach in Islamic law that focuses on the achievement of the five main goals of sharia<sup>34</sup>, namely the protection of religion (*hifz al-din*), the soul (*hifz al-nafs*), reason (*hifz al'aql*), heredity (*hifz al-nasl*), and property (*hifz al-māl*).<sup>35</sup> In the context of narcotics users, at least three of the five goals—namely intellect, soul, and offspring—are directly affected. Narcotics damage common sense, endanger lives, and, in the long run, can destroy the family order. Therefore, from the perspective of *Maqasid*, legal policies against narcotics users should be directed at protection and recovery, not just punishment.

Meanwhile, the restorative justice approach prioritizes restoring social relations and the perpetrator's responsibility for the impact of his actions. This principle targets recovery between perpetrators, victims, and the community through dialogue, mediation, and a mutually agreed improvement plan.<sup>36</sup> In the case of narcotics, although there are not always direct victims, the user can be seen as a party who has suffered personal and social damage, so this approach remains relevant.<sup>37</sup> Especially if it is synergized with *Maqasid al-Shari'ah*, which is oriented towards the benefit and improvement of individuals and communities.<sup>38</sup>

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<sup>33</sup> Husnil Mubarak Daulay, "Implikasi Kebijakan Keadilan Restoratif Justice Terhadap Penyalahgunaan Narkoba Jenis Sabu Dihubungkan Dengan Efektivitas Pemberantasan Tindak Pidana Narkoba," *Jurnal Impresi Indonesia* 1, no. 11 (10 November 2022): 1125–1133, <https://doi.org/10.58344/jii.v1i11.623>.

<sup>34</sup> Syamsuar Syamsuar et al., "Integration of Maqashid Syaria in Nurcholish Madjid's Thing about Principles for Effective Good Governance," *Al-Istinbath: Journal of Islamic Law* 9, no. 1 (May 30, 2024): 45–62, <https://doi.org/10.29240/jhi.v9i1.9701>.

<sup>35</sup> Nurul Ma'rifah, "Exploring and Discovering the Concept of Maqasid Sharia in the Indonesian Legal Science Tree," *Istinbath : Jurnal Hukum* 16, no. 2 (31 December 2019): 248–264, <https://doi.org/10.32332/istinbath.v16i2.1707>.

<sup>36</sup> Khalim Fatoni dan Iskandar Wibawa, "Penanganan Tindak Pidana Narkotika Berdasarkan Keadilan Restoratif Di Direktorat Reserse Narkoba Polda Jateng" 12, no. 3 (19 Maret 2023): 888–902.

<sup>37</sup> Hamdan Hamdan dan Afnaini Afnaini, "Implementation Of Restorative Justice In Criminal Acts Of Narcotics And Of Illegal Drug Abuse In Indonesia," *Fox Justi : Jurnal Ilmu Hukum* 15, no. 01 (26 Desember 2024): 72–89.

<sup>38</sup> Sayutis Sayutis, Elwi Danil, dan Yoserwan Yoserwan, "Penghentian Penuntutan Perkara Penyalahgunaan Narkotika Sebagai Implementasi Restorative Justice Pada Tahap Penuntutan (Studi Kasus

The integrative model between *Maqasid al-Shari'ah* and restorative justice emphasizes the need to stop prosecution for users of mild narcotics who demonstrate awareness and willingness to undergo rehabilitation. In this case, stopping prosecution does not mean impunity but an alternative form of legal settlement that is more beneficial. This policy must be carried out with measurable conditions, such as no involvement in the dealer network, no other criminal acts, and medical and social assessment results showing potential recovery.

For this policy to be implemented effectively, it is necessary to prepare comprehensive and benefit-based criteria. For example, evaluation of the level of dependency, socioeconomic condition of the perpetrator, and willingness to participate in rehabilitation programs must be carried out by an integrated team involving the National Narcotics Agency (BNN), the prosecutor's office, psychologists, and social workers. Within the framework of *Maqasid*, this is a strategic step to maintain the perpetrator's mind and soul and prevent wider damage.

Furthermore, implementing this integration also requires the involvement of actors across sectors. It is not enough only legal institutions such as the police and prosecutor's office, but also religious institutions, indigenous leaders, civil society organizations, and community-based recovery communities. The role of religious leaders is essential to provide a moral and spiritual foundation in the rehabilitation process. On the other hand, civil society organizations can be a bridge between the state and society in building a system of social assistance and reintegration for former users.<sup>39</sup>

The transformation of the state's functions from a punitive apparatus to a facilitator of recovery is one of the main principles of integrating *Maqasid* and restorative justice. The state is no longer present as an iron hand that imposes sanctions regardless of context but

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Di Kejaksaan Negeri Pasaman Barat),” *UNES Law Review* 6, no. 4 (11 Juli 2024): 11256-11267, <https://doi.org/10.31933/unesrev.v6i4.2133>.

<sup>39</sup> Mohammad Hakim Pratama Rahim, Dian Ekawaty Ismail, dan Apripari Apripari, “Hambatan Pelaksanaan Restorative Justice Pada Tindak Pidana Narkotika Di Kepolisian Resort Gorontalo Kota,” *Jaksa : Jurnal Kajian Ilmu Hukum Dan Politik* 2, no. 2 (19 Januari 2024): 258-266, <https://doi.org/10.51903/jaksa.v2i2.1691>.

as an entity that protects human dignity and potential. This follows the spirit of *Maqasid al-Shari'ah*, which prioritizes the values of *rahmah* (compassion), *ihsān* (improvement), and *'adalah* (substantive justice). At the normative level, policy revisions are needed to expand the space for the termination of prosecutions based on restorative justice. Attorney General Regulation No. 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice must be strengthened with a special clause targeting light narcotics users. This strengthening can be the basis for prosecutors to decide to terminate prosecutions more courageously and responsibly, legally and morally.<sup>40</sup>

From a juridical perspective, this integrative policy does not contradict the principles of national criminal law. The Criminal Code and the Narcotics Law allow law enforcement officials to consider objective conditions in the prosecution process. With the proper interpretation, the termination of prosecution can be interpreted as a form of a legitimate and more efficient policy of opportunity in the context of fair law enforcement.<sup>41</sup> In addition to the legal and social benefits, this approach also contributes to the economic aspects of the country. Rehabilitation is cheaper than criminalization. Data show that the cost of corrections is enormous, while recidivism rates remain high if not accompanied by a holistic rehabilitation program. By diverting users to the recovery path, the state can save the budget and allocate it to education, prevention, and community strengthening. More importantly, this integrative approach restores the user's dignity as a human being who can change and improve themselves.

In many cases, narcotics users are simply victims of an unequal system, an unhealthy environment, or past trauma. So, giving a second chance is not only a legal action but also a humanitarian action. This aligns with the Islamic principle that places human beings as noble beings and is always allowed to repent. To be successful, this policy requires public

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<sup>40</sup> Ardi Nefri dan Iyah Faniyah, "Pertimbangan Penyelidik Dalam Penghentian Penyelidikan Tindak Pidana Narkotika Berdasarkan Restoratif Justice," *Ekasakti Legal Science Journal* 1, no. 4 (7 Oktober 2024): 313-320, <https://doi.org/10.60034/pwmr1d81>.

<sup>41</sup> Dewi Sartika, Rina Khairani Pancaningrum, dan Joko Jumadi, "Restortative Justice Terhadap Tindak Pidana Narkotika Sebagai Strategi Penanggulangan Overcrowding Di Lembaga Pemasyarakatan," *JATISWARA* 38, no. 1 (31 Maret 2023): 113-123, <https://doi.org/10.29303/jtsw.v38i1.529>.



support and public awareness. The stigma against narcotics users must be combated through educational campaigns based on human and religious values. The community should be invited not to see users as "criminals" but as part of a community entitled to social recovery and reintegration. Without public support, restorative programs will face much resistance on the ground.<sup>42</sup>

Furthermore, periodic evaluations of policy implementation are essential to ensure effectiveness and accountability. The monitoring and evaluation mechanism must include legal, social, psychological, and spiritual aspects. The Ministry of Law and Human Rights, the Attorney General's Office, and independent institutions such as Komnas HAM can work together to supervise this policy's implementation to remain aligned with *Maqasid* and restorative justice principles.<sup>43</sup> Integrating *Maqasid al-Shari'ah* and restorative justice is a theoretical discourse and a path to a more just, humane, contextual legal system. By prioritizing the value of recovery, prevention, and moral improvement, Indonesia can build a narcotics policy that saves individuals and strengthens the overall social order. This is the face of the future law: punitive and restorative.

## CONCLUSION

The findings of this field research confirm that the paradigm of terminating prosecutions in narcotics cases—particularly involving minor users—requires substantial transformation to better align with social realities and the values of substantive justice. Interviews with prosecutors, law enforcement officers, and community leaders reveal that the current repressive and formalistic legal approach has a limited impact on deterrence and rehabilitation while contributing to overcrowded correctional facilities and undermining the reintegration of offenders. Empirical evidence from the field further

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<sup>42</sup> Deny Noer Wahid dan Ilham Dwi Rafiqi, "The Rehabilitation House for Drug Abusers: A Concept for Restorative Justice," *Jurnal Hukum Dan Etika Kesehatan*, 5 Juli 2023, 23-34, <https://doi.org/10.30649/jhek.v3i1.112>.

<sup>43</sup> Ersya Ananda Kusuma Wardani dan Muhammad Rustamaji, "The Implementation Of Restorative Justice Policy For Narcotics Abuse Crime," *Prosiding Seminar Nasional Ilmu Pendidikan* 1, no. 2 (21 Oktober 2024): 340-349, <https://doi.org/10.62951/proseminasipi.v1i2.63>.

supports the need for a shift toward restorative justice, especially for first-time or non-distributor users. This approach not only encourages offender accountability and victim involvement but also aligns with the objectives of *Maqasid al-Shari'ah*—notably the protection of intellect (*hifz al-'Aql*), life (*hifz al-Nafs*), and lineage (*hifz al-Nasl*). Community-based resolution mechanisms and rehabilitative programs observed during this study demonstrate restorative justice's potential to serve legal and moral goals. This research contributes academically by proposing an integrative policy model that combines Islamic legal values with restorative practices. It recommends that termination of prosecution based on rehabilitation be formally regulated through precise legal instruments that uphold the principles of public benefit (*maslahah*), education, and participation. Such a model reframes the state's role—not as a punitive authority alone, but as a facilitator of recovery and social justice.

#### **ACKNOWLEDGMENTS**

The author expresses his most profound appreciation and gratitude to the Rector of Universitas Prima Indonesia, who has provided moral support, academic facilities, and a conducive scientific atmosphere while compiling and completing this research. This institutional support is meaningful in encouraging the development of critical thinking and scientific contributions in law and public policy. Hopefully, the results of this research will provide tangible benefits for scientific development, especially in the reform of narcotics handling policies in Indonesia.

#### **AUTHOR CONTRIBUTIONS STATEMENT**

Fatah Chotib Uddin contributed to formulating the main ideas of the research, drafting the theoretical framework of *Maqasid al-Shari'ah* and restorative justice, and writing most of the conceptual discussions and integrative analyses of legal policy. He is also responsible for secondary data collection and conceptual validation of Islamic approaches to criminal policy regarding narcotics. Sri Sulistyawati plays a role in formulating research

methodologies, normative analysis of positive legal policies in Indonesia, and comparative analysis with international policies related to restorative justice. He also conducts academic editing of the writing structure and ensures the conformity of the reference style with the standards of scientific journals. Kartina Pakpahan contributed to preparing the literature review, preparing legal arguments based on court decisions related to the termination of the prosecution of narcotics cases, and integrating field data with the *Maqasid* framework. He also coordinates the writing of the results and conclusions sections and ensures narrative consistency between the sections of the article. All authors have read and approved the final manuscript for publication.

#### CONFLICT OF INTEREST

The authors state that no conflicts of interest are associated with this study. All findings and analyses presented in this article are the result of objective research and are not influenced by personal, financial, or professional interests that could affect the integrity and objectivity of the research.

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