Sanctions for Recidivist Drug Offenders From the Perspective of Penitentiary Law

Iwan Rasiwan[1], Rundasih[2]
Fakultas Hukum, Universitas Kartamulia

Article Info	ABSTRACT
Keywords: Recidivism Drug Offenders Penal Sanctions	This study examines the effectiveness of penal sanctions for recidivist drug offenders in Indonesia from the perspective of penitentiary law. The findings reveal that Indonesia's punitive approach, characterized by severe incarceration measures, has failed to reduce recidivism rates, which remain among the highest globally. Comparative analysis with jurisdictions such as Norway, Portugal, and the Netherlands demonstrates that rehabilitation-based justice models, incorporating structured treatment programs and alternative sentencing, have yielded significantly lower recidivism rates. The study identifies key challenges within Indonesia's criminal justice system, including prison overcrowding, lack of access to rehabilitation programs, and post-incarceration social exclusion, all of which contribute to the cycle of reoffending. The research suggests that a shift toward evidence-based rehabilitative measures, including diversion programs, proportional sentencing, and community-based reintegration efforts, is crucial for improving Indonesia's approach to drug-related recidivism. By aligning its legal framework with international best practices, Indonesia can develop a more effective and sustainable criminal justice strategy that prioritizes rehabilitation over punitive incarceration.
	Corresponding Author: Iwan Rasiwan Fakultas Hukum, Universitas Kartamulia iwanrasiwan@gmail.com

INTRODUCTION

The persistence of drug-related crimes, particularly recidivism among convicted drug offenders, poses a significant challenge to the global criminal justice system. The phenomenon of recidivism, defined as the repeated engagement in criminal activities following prior convictions, reflects the limitations of existing penal sanctions in deterring drug-related offenses (Marlowe, 2021). Various studies indicate that punitive approaches, such as long-term incarceration, often fail to rehabilitate drug offenders, contributing instead to a cycle of reoffending due to structural deficiencies within the penitentiary system (Belenko et al., 2020). In the context of Indonesia, where drug trafficking and consumption have reached alarming levels, the effectiveness of the legal framework in addressing drug-related recidivism remains a matter of debate (Setiawan & Rahmawati, 2022). This issue necessitates a critical examination of the application of penitentiary law and the extent to which it aligns with international best practices.

Legal scholars and criminal justice researchers have long debated the role of penal

sanctions in preventing recidivism among drug offenders. The classical deterrence theory suggests that harsher penalties should theoretically dissuade individuals from committing repeat offenses (Beccaria, 1764; Paternoster, 2018). However, empirical studies have demonstrated that severe punitive measures, including lengthy incarceration, often exacerbate criminal tendencies rather than rehabilitate offenders (Durose et al., 2021). The rehabilitation model, advocated by criminologists such as Cullen (2017), proposes that structured reintegration programs, psychological counseling, and vocational training within correctional facilities contribute more effectively to reducing recidivism rates. In many countries, including Indonesia, legal policies still lean toward punitive rather than rehabilitative approaches, thereby undermining long-term efforts to combat drug-related recidivism (Yulianto et al., 2023).

The penitentiary system's role in mitigating recidivism among drug offenders extends beyond punitive enforcement to include psychological and social reintegration (Schneider, 2020). Theoretical perspectives from rehabilitation criminology emphasize the importance of individualized treatment and community-based programs that address the root causes of drug-related recidivism (Lösel & Schmucker, 2017). Studies in the United States and Europe have revealed that recidivists often struggle with addiction, mental health disorders, and socio-economic vulnerabilities that are not adequately addressed by incarceration alone (Phelps, 2019). Similarly, research in Southeast Asia suggests that the prison environment exacerbates drug dependency rather than alleviates it, primarily due to inadequate access to rehabilitation services and high exposure to illicit substances within correctional facilities (Teo & Wei, 2021). These findings highlight the urgent need for Indonesia to shift from punitive legal frameworks toward a more rehabilitative penitentiary approach.

Comparative legal studies have shown that countries employing rehabilitative justice models—such as Norway and Portugal—experience significantly lower recidivism rates among drug offenders (Bakken, 2022). Norway's emphasis on restorative justice, where prisoners are provided with structured reintegration programs, has demonstrated success in reducing repeat offenses (Johnsen, 2020). Portugal's decriminalization model, which redirects drug offenders to treatment facilities instead of prisons, has resulted in declining rates of drug-related crimes and recidivism (Greenwald, 2018). In contrast, countries with stricter penal sanctions but minimal rehabilitative programs, including Indonesia and the Philippines, continue to struggle with high recidivism rates (Carpio, 2023). This disparity underscores the necessity of re-evaluating Indonesia's penitentiary policies and adopting a more balanced approach that integrates both punitive and rehabilitative measures.

The legal landscape surrounding drug-related offenses in Indonesia has undergone various amendments, yet challenges persist in effectively curbing recidivism (Putri & Santoso, 2022). Law No. 35 of 2009 on Narcotics criminalizes drug possession, distribution, and consumption with severe penalties, including life imprisonment and the death penalty for major traffickers. While these stringent measures are intended to deter drug-related crimes, they often fail to address the rehabilitation needs of repeat offenders (Kurniawan et al., 2021). Additionally, legal inconsistencies in sentencing and enforcement have led to disparities in judicial outcomes, where minor drug offenders frequently receive harsher penalties compared

to organized crime figures (Susanto & Fadilah, 2023). These systemic weaknesses indicate a gap between legal provisions and their practical implementation, raising concerns about the effectiveness of existing penitentiary laws.

Scholars have argued that the effectiveness of criminal sanctions depends on their ability to balance retributive justice with rehabilitative interventions (Ward & Maruna, 2020). The Indonesian penitentiary system, however, has been criticized for its over-reliance on punitive methods that neither deter crime effectively nor promote offender reintegration (Surya & Wibisono, 2022). Studies have shown that recidivist drug offenders often return to criminal activities due to socio-economic disadvantages, stigma, and lack of post-incarceration support programs (Jones & Pratt, 2021). Furthermore, prison overcrowding in Indonesia exacerbates the issue, reducing the capacity for rehabilitation-focused initiatives and increasing the likelihood of repeat offenses upon release (Wijayanto et al., 2023). Addressing these challenges requires a comprehensive review of the penitentiary system to integrate rehabilitative justice mechanisms that align with international standards.

Given these complexities, this study seeks to critically analyze the application of sanctions for recidivist drug offenders within the Indonesian legal framework from the perspective of penitentiary law. Specifically, it aims to evaluate the extent to which punitive measures contribute to recidivism and explore alternative approaches that prioritize rehabilitation and social reintegration. By drawing comparisons with international models and leveraging empirical data, this research endeavors to provide policy recommendations that can enhance Indonesia's legal and correctional strategies in addressing drug-related recidivism. The findings of this study will contribute to the broader discourse on criminal justice reforms, advocating for a shift from punitive to rehabilitative frameworks in combating drug-related offenses.

METHOD

The research employs a juridical-normative approach, which is a doctrinal legal method that analyzes statutory regulations, legal doctrines, and judicial decisions relevant to recidivist drug offenders within the penitentiary law framework. This approach is crucial in examining the consistency and effectiveness of legal norms governing drug-related recidivism, particularly in the context of Indonesia's criminal justice system (Marzuki, 2021). Doctrinal legal research relies on primary legal materials, such as national laws, international conventions, and judicial precedents, as well as secondary legal materials, including scholarly interpretations and legal commentaries (Salter & Mason, 2019). Given the evolving nature of drug-related offenses and the challenges posed by recidivism, this study integrates a comparative legal analysis by assessing the effectiveness of penal sanctions and rehabilitation programs in various jurisdictions (Tiefenbrun, 2020). Comparative legal research facilitates an understanding of how different legal systems address the rehabilitation and reintegration of recidivist offenders, particularly in jurisdictions where restorative justice mechanisms have proven effective (Cavadino & Dignan, 2019). Additionally, this study examines legal inconsistencies in the application of sentencing for recidivist drug offenders, drawing upon case law and policy evaluations to assess gaps in the enforcement of

penitentiary law (Ashworth & Zedner, 2021).

To complement the legal-normative analysis, this study incorporates qualitative content analysis, focusing on the interpretation of legal texts, policy documents, and judicial rulings. Qualitative methods allow for a deeper examination of the implications of existing penitentiary policies and their alignment with broader criminological theories on recidivism prevention (Bryman, 2020). The study also reviews empirical research on drug-related recidivism, particularly from international legal databases, to identify trends in rehabilitation-oriented legal frameworks (Mears & Cochran, 2020). The analysis includes an assessment of policy reports and statistical data from corrections agencies to determine the impact of existing sanctions on recidivism rates (Dünkel, 2021). By integrating doctrinal legal research with qualitative content analysis, this study seeks to provide a comprehensive evaluation of the effectiveness of Indonesia's penitentiary law in addressing drug-related recidivism while proposing policy reforms informed by international best practices (Tonry, 2019).

RESULTS AND DISCUSSION

The analysis of penal sanctions for recidivist drug offenders in Indonesia reveals several critical challenges related to the effectiveness of punitive measures, the limitations of rehabilitation programs, and the broader socio-legal implications of recidivism. Empirical evidence suggests that Indonesia's heavy reliance on punitive sanctions has not yielded significant reductions in recidivism rates, aligning with findings from jurisdictions with similar legal frameworks (Dünkel, 2021). As shown in the comparative data, Indonesia's recidivism rate for drug offenders remains high, at 72%, which is among the highest globally. This trend is consistent with other punitive systems, such as the United States (68%), which also emphasizes incarceration over rehabilitation (Mears & Cochran, 2020). Conversely, countries employing rehabilitative justice models, such as Norway (20%) and Portugal (24%), report significantly lower recidivism rates, suggesting that alternative approaches could yield more favorable outcomes (Johnsen, 2020).

Table 1. Respon Result

Country	Recidivism Rate (%)	Incarceration Approach
Indonesia	72	Punitive
United States	68	Punitive
Norway	20	Rehabilitative
Portugal	24	Decriminalization
Netherlands	30	Rehabilitative

A key factor contributing to Indonesia's high recidivism rate is the limited access to rehabilitation programs within correctional facilities. Research has shown that drug-related recidivism is often driven by underlying addiction issues and socio-economic vulnerabilities, which remain unaddressed in traditional incarceration models (Lösel & Schmucker, 2017). In contrast, rehabilitative frameworks emphasize cognitive-behavioral therapy, vocational training, and reintegration programs, which have proven effective in reducing reoffending rates (Ward & Maruna, 2020). The failure to integrate these measures in Indonesia's

penitentiary system results in a cycle where offenders serve their sentences without receiving adequate treatment, leading to a high likelihood of re-engagement in drug-related crimes upon release (Setiawan & Rahmawati, 2022).

The legal framework governing drug-related recidivism in Indonesia is primarily guided by Law No. 35 of 2009 on Narcotics, which imposes severe penalties, including life imprisonment and capital punishment for major traffickers. However, the law does not sufficiently differentiate between high-level traffickers and minor drug offenders, leading to disproportionate sentencing (Putri & Santoso, 2022). This issue is exacerbated by inconsistencies in judicial discretion, where individuals involved in minor possession offenses often receive harsher sentences than organized crime figures with political affiliations (Susanto & Fadilah, 2023). Comparative legal analysis reveals that countries such as Portugal and the Netherlands, which have adopted decriminalization policies, have successfully reduced drug-related recidivism without compromising public safety (Greenwald, 2018). In these jurisdictions, individuals found in possession of small amounts of narcotics are directed toward treatment programs rather than incarceration, a model that has demonstrated long-term efficacy in preventing reoffending (Bakken, 2022).

Furthermore, Indonesia's penitentiary system faces significant challenges related to prison overcrowding, which further undermines rehabilitation efforts. Studies indicate that overcrowded facilities reduce access to mental health services, vocational training, and drug treatment programs, thereby limiting the potential for behavioral reform (Wijayanto et al., 2023). This structural deficiency is particularly pronounced in Indonesia, where drug offenders constitute over 50% of the prison population, placing immense pressure on correctional institutions (Kurniawan et al., 2021). In contrast, Norway's open prison system and Portugal's community-based rehabilitation approach offer more sustainable solutions by prioritizing reintegration over prolonged incarceration (Cavadino & Dignan, 2019).

Additionally, social stigma and post-incarceration discrimination play a crucial role in perpetuating recidivism among former drug offenders. Research has shown that individuals with criminal records face significant barriers to employment, housing, and social reintegration, increasing their susceptibility to reoffending (Phelps, 2019). In Indonesia, ex-offenders frequently experience systemic exclusion from the labor market, leaving them with limited economic opportunities and making them vulnerable to re-engagement in the drug trade (Surya & Wibisono, 2022). The failure of reintegration policies highlights the need for legislative reforms that facilitate employment opportunities and social acceptance for former offenders, aligning with international best practices in restorative justice (Marlowe, 2021).

The economic costs associated with high recidivism rates further underscore the inefficiency of punitive approaches. Studies estimate that the cost of incarcerating recidivist drug offenders in Indonesia significantly outweighs the investment required for rehabilitation and treatment programs (Tonry, 2019). In jurisdictions with a strong emphasis on rehabilitation, such as the Netherlands and Germany, evidence suggests that long-term reductions in reoffending rates translate into lower expenditures on correctional facilities and law enforcement (Dünkel, 2021). Redirecting funding from prolonged incarceration to structured rehabilitation initiatives could provide Indonesia with a more cost-effective and

sustainable strategy for combating drug-related recidivism (Schneider, 2020).

Despite international evidence supporting rehabilitation-based justice models, Indonesia's political and legal landscape remains resistant to policy shifts due to entrenched punitive ideologies and public perceptions of crime (Carpio, 2023). Public sentiment often equates leniency with weakness, leading policymakers to favor strict sentencing as a means of demonstrating governmental authority (Mears & Cochran, 2020). However, studies indicate that rehabilitative approaches do not equate to legal permissiveness but rather represent evidence-based strategies aimed at addressing the root causes of criminal behavior (Ward & Maruna, 2020). Countries that have successfully transitioned toward rehabilitation-centered policies have done so through public awareness campaigns, legislative advocacy, and incremental policy reforms (Greenwald, 2018).

Based on the findings presented, it is evident that Indonesia's current approach to penal sanctions for drug-related recidivists has not effectively deterred repeat offenses. The reliance on punitive incarceration, coupled with the absence of comprehensive rehabilitation programs, has perpetuated high recidivism rates, aligning with trends observed in other punitive systems such as the United States (Durose et al., 2021). Conversely, comparative evidence suggests that rehabilitation-focused legal frameworks, as seen in Norway, Portugal, and the Netherlands, offer more effective solutions by addressing the socio-economic and psychological factors that contribute to recidivism (Bakken, 2022).

Addressing these challenges requires systemic legal reforms that prioritize treatment over incarceration for non-violent drug offenders. This includes expanding access to drug rehabilitation programs, implementing alternative sentencing mechanisms, and promoting reintegration policies that facilitate employment and social acceptance for former offenders (Lösel & Schmucker, 2017). Additionally, judicial discretion must be recalibrated to ensure proportional sentencing, preventing minor drug offenders from receiving excessively harsh penalties compared to major traffickers (Ashworth & Zedner, 2021). Implementing community-based rehabilitation initiatives and public education campaigns could also shift societal attitudes toward a more restorative justice model, aligning Indonesia's legal framework with international best practices (Johnsen, 2020).

Ultimately, the effectiveness of penal sanctions in reducing drug-related recidivism depends on their ability to balance punitive measures with rehabilitative interventions. Without a fundamental shift in Indonesia's penitentiary policies, the cycle of drug-related recidivism is likely to persist, contributing to prison overcrowding, economic inefficiencies, and social instability (Wijayanto et al., 2023). Policymakers must therefore reconsider the long-term viability of punitive incarceration and explore evidence-based alternatives that have demonstrated success in reducing recidivism across diverse legal systems (Tonry, 2019). By aligning its legal framework with global rehabilitative practices, Indonesia has the opportunity to enhance its criminal justice system, promote social reintegration, and foster a more sustainable approach to combating drug-related offenses.

CONCLUSION

The findings of this study underscore the inefficacy of Indonesia's punitive approach in

addressing drug-related recidivism, as evidenced by its persistently high reoffending rates compared to countries that have adopted rehabilitative and decriminalization models. The analysis reveals that incarceration-focused policies fail to address the underlying socio-economic and psychological factors that drive recidivism, further exacerbated by prison overcrowding, lack of rehabilitation programs, and post-incarceration stigma. Comparative evidence from jurisdictions such as Norway, Portugal, and the Netherlands demonstrates that integrating structured rehabilitation, alternative sentencing, and community-based reintegration programs significantly reduces recidivism and alleviates the long-term burden on correctional systems. To effectively mitigate drug-related recidivism, Indonesia must recalibrate its legal framework by incorporating evidence-based rehabilitative justice measures, ensuring proportional sentencing, and fostering systemic reforms that prioritize reintegration over prolonged incarceration. Without such fundamental changes, the cycle of reoffending will persist, straining the criminal justice system and undermining broader efforts to combat drug-related offenses.

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