

The Effectiveness of Criminal Punishment and Rehabilitation Measures for Children as Narcotics Addicts, Reviewed from The Perspective of Child Protection Law (Study of Decision No. 60/Pid.Sus-Anak/2022/Pn Btm)

Billy Calvindo Pinem ¹⁾ & Andri Winjaya Laksana ²⁾

¹⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Indonesia, E-mail: billycalvindopinem.std@unissula.ac.id

²⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Indonesia, E-mail: andri.w@unissula.ac.id

Abstract. *The increasing involvement of children in drug abuse is a worrying issue in Indonesia's child protection system. Children who become involved in drugs are not essentially perpetrators of crimes, but rather victims in need of recovery and support. This study was conducted to examine how rehabilitation punishment is applied to children addicted to drugs and the extent to which this mechanism reflects the principles of child protection as mandated by law. The main objective of this study is to understand the effectiveness of rehabilitation punishment in restoring children's condition, protecting their future, and realizing humane justice through a study of Decision No. 60/Pid.Sus-Anak/2022/PN Btm. This research employs a normative legal research method with a case study approach. The analysis examines relevant legal regulations, legal doctrine, and the judge's reasoning in the relevant decision. This approach is combined with an examination of child protection principles and the concept of restorative justice, which serve as the primary basis for handling children in conflict with the law (the best interest of the child). Therefore, this research relies not only on written norms but also on humanitarian values and the social purpose of criminal punishment. The research findings indicate that rehabilitation-based punishment is fundamentally aligned with the principle of the best interests of the child and the restorative justice paradigm. Rehabilitation is considered more capable of meeting children's physical, mental, and social recovery needs than repressive punishment. However, its effectiveness still faces various challenges, such as limited rehabilitation facilities, weak inter-agency coordination, and suboptimal post-rehabilitation support and supervision. Therefore,*

the success of rehabilitation depends heavily on the quality of implementation, policy support, and the system's commitment to truly positioning children as subjects who must be protected.

Keywords: *Effectiveness; Narcotics Addicts; Rehabilitation Sentencing.*

1. Introduction

Drug abuse is a serious problem facing Indonesia. Data from the National Narcotics Agency (BNN) shows that the prevalence of drug abuse in Indonesia tends to increase annually, with a worrying trend of use among children and adolescents.¹ This phenomenon creates its own problems, as children, who are essentially in a growth and development phase, are confronted with addictive substances that can damage their future.

The problem of drug abuse in Indonesia continues to increase year after year and has now spread to children. Children who should receive protection, education, and a healthy environment for growth and development are instead becoming victims of drug abuse, both as users and within distribution networks. This phenomenon creates a legal dilemma: should children who abuse drugs be viewed as perpetrators of criminal acts or as victims requiring special protection.

Indonesia makes law the highest foundation, and all

People must submit before the law as stated in the principle of "Equality Before the Law" where all people are considered equal and equal before the law regardless of age, whether they are adults or children. Even though children are considered the nation's generation, the law still applies if they carry out actions that are not in accordance with applicable legal rules and norms.

Law Number 35 of 2009 concerning Narcotics explicitly regulates criminal penalties for drug abusers. However, other regulations prioritize rehabilitation as an alternative to criminal penalties, particularly for children. At the same time, Law Number 35 of 2014 concerning Child Protection mandates that every child has the right to protection from the dangers of drug abuse.

Article 127 paragraph (1) of the Narcotics Law explicitly stipulates that drug abusers are subject to imprisonment. However, the same article also opens up the possibility of placing drug abusers in medical or social rehabilitation.² This provision creates room for interpretation: whether it is more appropriate to

¹ National Narcotics Agency, Indonesia Drugs Report 2023, BNN, Jakarta, p. 15.

² Article 127 paragraph (1) of Law No. 35 of 2009 concerning Narcotics

sentence children who abuse narcotics to prison or place them in a rehabilitation institution.

Regarding the issue of drug abuse, sentencing children is considered unwise. However, some believe that sentencing children is still important.

so that the child's bad attitude does not continue to become permanent until he is an adult. Bagir Manan is of the opinion that children in the field of criminal law are treated as "little adults", so that all the processes of their cases except in Correctional Institutions are carried out the same as adult cases. The only different treatment is during the examination in court, the trial for children's cases is carried out in private (Article 153 paragraph (3) of the Criminal Procedure Code (KUHAP) and the officers (judges and prosecutors) do not wear togas. All of this is related to the physical, mental and social interests of the child concerned.³

The Child Criminal Justice System (SPPA Law) emphasizes the principle of restorative justice and prioritizes a diversion approach. Article 7 of the Child Criminal Justice System Law requires law enforcement officials to seek diversion for children caught in criminal acts with a sentence of less than 7 (seven) years in prison.⁴ This is important, considering that the goal of child criminalization is not to punish repressively, but rather to provide guidance, protection, and social reintegration.

On the other hand, the Indonesian juvenile justice system (Law No. 11 of 2012 concerning the Juvenile Criminal Justice System) has introduced the principle of restorative justice, which places greater emphasis on the development, rehabilitation, and social reintegration of children. This raises critical questions about the effectiveness of criminalizing children as drug abusers: do criminal sanctions truly provide a deterrent effect, or are they counterproductive to children's development?

When linked to the concept of child protection, the legal system should prioritize children's rights to grow and develop in a healthy environment. Criminalization that overly emphasizes retaliation is feared to neglect children's rights and may even worsen their psychological condition. Numerous studies have shown that placing children in institutions Correctional institutions have the potential to increase the chances of children returning to crime (recidivism) due to the influence of a bad criminal environment.⁵

³ Bagir Manan quoted by Gatot Supramono, *Juvenile Court Procedure*, Djambatan, Jakarta, 2000, p. 9

⁴ Article 7 paragraph (1) of Law No. 11 of 2012 concerning the Juvenile Criminal Justice System.

⁵ Marlina, *Juvenile Criminal Justice in Indonesia: Development of the Concept of Diversion and Restorative Justice*, Bandung: Refika Aditama, 2009, p. 122.

Children from families with disharmony are more likely to seek out environments outside the family that accept them for who they are. A positive environment will undoubtedly resolve the child's problems and lead them in a positive direction. Conversely, a negative environment can lead the child to negative behavior, including committing crimes such as theft, pickpocketing, and even murder. The role of the family is fundamental to a child's education. If family education fails, children are more likely to engage in delinquent behavior in society, often leading to criminal activity. The term "drugs" became widely known around 1998 due to the widespread use of illegal narcotics and addictive drugs.

Therefore, to make it easier for the public to identify prohibited items, including narcotics and illegal addictive drugs, the words "prohibited narcotics" and "addictive drugs" have been shortened to "narcotics." Many people are now familiar with these terms, but not everyone understands what these drugs actually mean. Furthermore, many people don't even know what they are, as these items are prohibited items in society.⁶

Drugs can be dangerous if abused or used without following established health standards, especially if accompanied by clandestine distribution activities, which will impact society in general and the younger generation in particular. What is more feared is that they can pose a threat to the life of a nation and state and damage the nation's ethical, moral, and cultural values, which in turn will affect the morals and mentality of the younger generation as the nation's future generation.⁷

Since the enactment of the Children's Law until today, the welfare and fulfillment of children's rights have been far from what was expected. This can be seen from the current situation and condition of children. The current situation and condition of children, when viewed from an educational perspective, Indonesian children are said to be not yet prosperous and cannot be said to have their rights fully fulfilled. Many children in Indonesia still drop out of school. In addition to dropping out of school, many children are also victims of violence and experience mistreatment such as child abuse and child indecency. Not only are victims of violence against children, what is most concerning now is that when children himself who is the perpetrator of the crime.⁸

The development of the times is also a factor related to the increasing number of juvenile delinquency as well as its level of seriousness. This delinquency usually begins with deviant behavior caused by various internal and external factors. Deviant behavior caused by external factors can be influenced by the strong

⁶ Alwan Hadiyanto, *Model Coaching Prisoners Drugs In Institution Correctional*, Yogyakarta: GENTA PUBLISHING, 2020, page 37

⁷ Ahmad Rifai, *Drugs Behind Prison Walls*, Yogyakarta: Aswaja Pressindo, 2014, pp. 4-5

⁸ Maidin Gultom, *Legal Protection for Children*, Refika Aditama, Bandung, 2006, p. 35.

current of globalization in the fields of technology, information and communication, and economic needs, which can actually lead children to commit various criminal acts. Meanwhile, when viewed from the perspective of internal factors, the cause is the child's unstable personality condition which is the root of deviant behavior. Thus, children in conflict with the law need to receive special protection so that their rights are still adhered to. In general, the aspect of protection for children in conflict with the law is more emphasized on children's rights rather than on children's obligations, because children are generally not burdened with obligations.⁹

A significant number of children in Indonesia are brought to court each year for minor crimes, such as theft and other offenses. It's no surprise that nine out of ten children who commit crimes are sent to prison or detention centers. They deserve to be treated fairly.

receive support, both from lawyers and social services, to obtain protection. The current situation is very concerning because many children have to deal with the law and they are placed in detention and imprisonment with adults, making them vulnerable to violence. Various criminal cases involving children who have to deal with the law are a current and factual problem as a social and criminal phenomenon that has raised concerns among parents and the general public, as well as law enforcement officials.¹⁰

Batam, a city located in the Riau Islands Province, serves as one of Indonesia's gateways to neighboring countries. Its strategic location fosters rapid economic and tourism growth. However, Batam's popularity also brings negative impacts, one of which is the increase in drug trafficking. In this article, we will explore the impact of drugs in Batam and the efforts being made to eradicate this problem.

Drug abuse in Batam has become a serious problem. According to data from the National Narcotics Agency (BNN) of the Riau Islands Province, drug abuse rates in Batam have increased significantly in recent years. Data shows that more than 10,000 people have been caught in the drug ring, spanning various sectors community groups, from students to working adults.¹¹

One of the main factors contributing to the high rate of drug abuse is accessibility. Batam's direct borders with countries with greater drug problems, such as Malaysia and Singapore, make drug entry routes increasingly open. Drug smuggling through ports and airports is very easy.

⁹ Haris Dwi Saputro, Muhammad Miswarik, Implementation of Diversion in the Criminal Justice System for Children in Conflict with the Law, *Journal Inicio Legis* Volume 2 Number 1, 2021, p. 1

¹⁰ Ulang Mangun Sosiawan, Restorative Justice Perspective as a Form of Protection for Children in Conflict with the Law, *DE JURE Legal Research Journal*, Vol. 16, No. 14, p. 428

¹¹ The Impact of Drugs in Batam City & Eradication Efforts accessed on October 16, 2025 at 22:00 WIB.

On the other hand, economic instability is a major reason why many people engage in drug abuse. They seek quick ways to make money, despite the high risks. For some, getting involved in the drug business seems like a lucrative business opportunity. Furthermore, Batam residents, especially teenagers, often lack education about the dangers of drugs. This lack of knowledge makes them more vulnerable to influence. Therefore, educational efforts are crucial in preventing drug abuse.

As a real-life example, the author takes a case that occurred in Batam City with case number: 60/Pid.Sus-Anak/2022/PN. Btm. In this case, a child with the initials MFAA was charged by the judge and was proven legally and convincingly guilty of conspiring without authority or against the law to sell class I narcotics in the form of plants (marijuana) with evidence of dried marijuana leaves.

weighing 31.43 grams, cell phone, motorbike, and cash.¹²

However, because the case involves a child, the treatment of the application of the law is different from that of adults through the high court policy for the sake of justice and legal certainty as well as the benefit for the child, so in addition to imprisonment, by reducing the period of detention already served, the judge takes into account the previous detention process, as fair treatment for children, there are special regulatory elements that pay attention to job training at LPKS.

This decision demonstrates the application of the juvenile criminal justice system (SPPA), because the defendant is a child, where the Panel of Judges chose a combination of punishments: imprisonment and job training, which is consistent with the rehabilitative goals of juvenile justice, not just punishment alone.

Based on the results of the pre-research, there are still children who return to committing narcotics crimes after undergoing diversion, from In several detention centers, including the juvenile detention center in Maros, there are still children who enter repeatedly or are usually called recidivists. This is triggered by environmental factors and economic problems according to several children the author has met.

The Narcotics Agency (BNN) recorded figures on narcotics abuse Among students in 2018 (across 13 provincial capitals in Indonesia), the number reached 2.29 million. One group at risk of drug abuse is those aged 15-35, or the millennial generation.¹³

Due to the negative influence of their environment, it's not uncommon for children to engage in criminal acts. This can be driven by persuasion,

¹² The Impact of Drugs in Batam City & Eradication Efforts accessed on October 16, 2025 at 22:00 WIB.

¹³<https://bnn.go.id/penggunaan-narkotika-kalangan-remaja-meningkat/> accessed on Wednesday, August 13, 2025, at 22:18 WIB.

spontaneity, or simply following the crowd. However, regardless of the reason, their actions are still criminal acts. However, for the sake of children's mental growth and development, it's important to consider the differences in treatment under procedural law and the threat of criminal penalties.¹⁴ Behavioral deviations committed by teenagers in the sense of juvenile delinquency are actions or actions carried out by someone who is not yet an adult who intentionally breaks the law and is aware by the child himself that his actions can be subject to sanctions or punishment (criminal).¹⁵

Children's human rights are part of human rights that are guaranteed and protected by international law and national law, which are universally protected in the Universal Declaration of Human Rights (UDHR) and the International Convention on Civil and Political Rights.

The identities of children in conflict with the law must be kept confidential, as stipulated in the Juvenile Criminal Justice System Law. Therefore, it is difficult to find data on the number of children who have been convicted and re-arrested, whether as minors or as adults. However, the author's preliminary research indicates that several children were re-arrested after facing the law for drug cases, either through criminalization or diversion.

Child protection is an effort to create conditions in which children can exercise their rights and obligations. Based on the concept of *parents patriae*, namely the State provides attention and protection to children as parents do to their children, then the handling of children who face with the law must also be carried out in the best interests of the child and based on the values of Pancasila.¹⁶

Every child has the right to freedom in accordance with the law. Arrest, detention, or imprisonment of a child shall only be carried out in accordance with applicable law and shall only be used as a last resort. Legal protection for children is an effort to legally protect the various freedoms and human rights of children.¹⁷

¹⁴ Bilher Hutahaeen, *Application of Criminal Sanctions for Child Criminals*, Faculty of Law, Trunajaya University, Bontang, 2013, p. 2

¹⁵ Guntarto Widodo, *The Juvenile Criminal Justice System as Perpetrators of Criminal Acts: The Perspective of Law Number 11 of 2012 Concerning the Juvenile Criminal Justice System*, *Surya Kencana Dua Journal: Dynamics of Legal and Justice Issues*, Vol. 6 No. 1, 2016, p. 3

¹⁶ Nur Rochaeti, "The Restorative Justice Model as an Alternative Treatment for Delinquent Children in Indonesia", *MMH* Volume 37 Number 4, December 2008. Page 239

¹⁷ Law Number 23 of 2002 concerning Child Protection, State Gazette of the Republic of Indonesia Number 109 of 2002.

2. Research Methods

This type of research uses normative legal research (Normative Legal Research), supported by the application of empirical norms. Soerjono Soekanto uses the benchmark in his discussion of normative legal research from the nature and scope of legal disciplines. Discipline is defined as a system of teachings about reality, which usually includes analytical and prescriptive disciplines, and legal disciplines. Usually included in prescriptive disciplines, if law is seen as only covering its normative aspects.¹⁸ Or in normative juridical terms, because in legal research one must also examine the juridical basis.¹⁹ Soerjono Soekanto also refers to normative legal research as research that starts from legal materials in the form of statutory regulations and legal literature, while empirical research emphasizes law in action.²⁰ With this combination, it is hoped that a more comprehensive analysis will be achieved: not only looking at the law in text, but also in its implementation.

3. Results and Discussion

3.1. Criminalization of Rehabilitation Actions for Children as Drug Addicts

1. Mechanism for Punishing Rehabilitation Actions

The rehabilitation mechanism for children addicted to narcotics is fundamentally based on the paradigm that children are victims in need of help, not perpetrators deserving of punishment. Therefore, the handling process must be carried out with a more humane approach, oriented toward recovery, and avoid repressive actions that could damage the child's psychological development. This punishment mechanism begins during the investigation process, where law enforcement officers are required to identify whether the child is a user, addict, or victim of narcotics abuse. At this stage, investigators must prioritize medical and social assessments to ensure that the child is placed on a rehabilitation path, rather than a punitive judicial process.²¹

After the initial assessment and examination process, the next step is implementing diversion, as stipulated in the Juvenile Criminal Justice System Law (UU SPPA). Diversion is carried out through A deliberation involving investigators, community counselors, the child's family, community leaders, and rehabilitation institutions. The goal of diversion is to shift the child's treatment from the judicial process to a recovery mechanism through medical and social rehabilitation. Diversion is the basis for ensuring that the punishment of child

¹⁸ Depri Liber Sonata "Normative and Empirical Legal Research Methods: Distinctive Characteristics of Legal Research Methods", *Fiat Justisia Journal of Legal Studies*, Faculty of Law, University of Lampung, Vol. 8, Number 1, January-March 2014. p. 24

¹⁹ Abdul Kadir Muhammad, *Law and Legal Research*, Bandung: Citra Aditya Bakti, 2004, p. 52.

²⁰ Soerjono Soekanto, *Introduction to Legal Research*, Jakarta: UI Press, 2006, p. 51.

²¹ Marlina, *Juvenile Criminal Justice in Indonesia* (Bandung: Refika Aditama, 2012), p. 87–90.

addicts should not be directed toward imprisonment, but rather toward rehabilitative measures focused on restoring the child's behavior and health. This process also emphasizes the principle of the best interest of the child, namely that every decision must prioritize the child's interests and future.²²

If diversion is approved, the court will determine rehabilitation as a form of punishment. Medical rehabilitation is carried out in designated facilities, such as hospitals or BNN rehabilitation institutions, to address the child's physical and psychological dependency. Furthermore, social rehabilitation is implemented through counseling, behavioral therapy, character education, and spiritual and social development. This approach aims to reshape the child's mindset so they understand the dangers of narcotics, develop self-control, and are ready to return to a healthy life.²³ Research in the UNISSULA environment also shows that social rehabilitation has a significant role in restoring the emotional and moral condition of children after experiencing drug addiction.²⁴

The next stage is post-rehabilitation supervision and guidance, where the child continues to be monitored by the rehabilitation institution, community counselors, and family. This supervision is crucial because the risk of relapse remains high, especially when the child returns to an environment that previously exerted a negative influence. In the rehabilitation sentencing mechanism, ongoing support is considered an integral part of the recovery process. Support is provided through regular visits, follow-up counseling, and social development activities in the community. Several studies by UNISSULA students confirm that successful post-rehabilitation is highly dependent on the involvement of the family and social environment, which are able to provide consistent emotional and moral support.²⁵

Thus, the rehabilitation mechanism for child drug addicts is not simply a legal action, but a series of recovery processes that address physical, psychological, social, and spiritual aspects. Rehabilitation provides children with the opportunity to improve themselves and return to a dignified life, while also serving as a concrete manifestation of child protection within the Indonesian legal system.

2. Medical and Social Rehabilitation for Drug Addicts

²² Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, Article 7–12.

²³ Ghodse, Hamid, *Ghodse's Drugs and Addictive Behavior* (Cambridge University Press, 2010), pp. 152–158.

²⁴ Siti Romlah, "Implementation of Rehabilitation for Child Victims of Narcotics Abuse," UNISSULA Faculty of Law Thesis, 2020, pp. 45–47.

²⁵ Muhammad Fathurrahman, "The Effectiveness of Diversion in Handling Child Narcotics Addicts," Master of Law Thesis, UNISSULA, 2021, pp. 60–63.

Regulation In order to protect the public from the illicit trafficking and negative impacts of narcotics, it has been emphasized in Article 54 of Law No. 35 of 2009 concerning Narcotics that narcotics addicts and victims of narcotics abuse are required to undergo medical rehabilitation and social rehabilitation. Rehabilitation for narcotics addicts is carried out with the aim of restoring and/or developing the physical, mental, and social abilities of the sufferer concerned. Medical rehabilitation²⁶ is a process of integrated treatment activities to free addicts from drug dependence. Social rehabilitation is a process of integrated recovery activities, both physical, mental and social, so that former drug addicts can return to carrying out social functions in community life.

Medical rehabilitation for drug addicts is carried out in hospitals designated by the Minister. In addition, certain rehabilitation institutions run by government agencies, such as Narcotics Prisons and Regional Governments, may provide medical rehabilitation for drug abusers after obtaining the Minister's approval. Therefore, for medical rehabilitation, drug addicts who inject needles can be provided with a series of therapies to prevent transmission, including HIV/AIDS, through needles, under strict supervision.

Ministry of Health. Likewise, the public can undergo medical rehabilitation for drug addicts after receiving approval from the minister.

On the other hand, through medical treatment and/or rehabilitation, the recovery of drug addicts can be provided by government agencies or the community through religious and traditional approaches. Meanwhile, social rehabilitation for former drug addicts can be provided by government agencies or the community.

Law Number 35 of 2009 concerning Narcotics, regulates criminal sanctions in the form of imprisonment or fines for parents or guardians of underage addicts who deliberately do not report, narcotics addicts who are of age and deliberately do not report themselves, and also for families of narcotics addicts who deliberately do not report narcotics addicts who are of age. It has been emphasized in the provisions of the law that narcotics addicts are required to undergo medical rehabilitation and social rehabilitation.

Based on this provision, parents or guardians of drug addicts who are not yet of age are required to report to community health centers, hospitals, and/or medical rehabilitation and social rehabilitation institutions appointed by the government to receive treatment. In addition, drug addicts who are of age are also required to report themselves or be reported by their families to community health centers, hospitals, and/or medical rehabilitation institutions.

²⁶ Article 1 Point 6 of the Republic of Indonesia Government Regulation No. 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts

and social rehabilitation appointed by the government to receive treatment and/or care through medical rehabilitation and social rehabilitation. and/or care through medical rehabilitation and social rehabilitation.

Drug addicts undergoing legal proceedings may be placed in medical and/or social rehabilitation institutions, which are under the authority of investigators, public prosecutors, or judges, depending on the level of examination, after receiving recommendations from a team of doctors. The obligation to undergo medical and/or social rehabilitation also applies to drug addicts ordered by a court decision if the drug addict is proven guilty of committing a drug crime; or a court ruling if the drug addict is not proven guilty of committing a drug crime.

Certainty regarding the implementation of mandatory reporting is further regulated through Government Regulation of the Republic of Indonesia No. 25 of 2011 concerning the Implementation of Mandatory Reporting for Narcotics Addicts. Narcotics addicts are required to report themselves voluntarily to the Mandatory Reporting Receiving Institution, hereinafter referred to as IPWL, in order to receive treatment. IPWL are community health centers, hospitals, and/or medical rehabilitation institutions and social rehabilitation institutions appointed by the government.

The procedure for accepting drug addicts who have received a court decision or verdict in a rehabilitation program is determined. as follows:²⁷

- a. Narcotics addicts who have received a court decision or verdict that has permanent legal force to undergo treatment and/or care through rehabilitation, are handed over by the prosecutor's office to a designated medical rehabilitation facility for narcotics convicts.
- b. Handover is carried out during the administrative working hours of the designated hospital.
- c. The handover of drug addicts who have received a court order to undergo rehabilitation is carried out by the prosecutor's office accompanied by a court order report, attaching a copy/excerpt of the court order, and a statement of the patient's willingness to undergo medical rehabilitation according to the therapy plan determined by the assessment team, signed by the patient and family/guardian.

During the medical rehabilitation phase, convicts are required to undergo three stages of treatment: an initial inpatient program, a follow-up program, and a

²⁷ Attachment to the Regulation of the Minister of Health No. 46 of 2012 concerning Procedures for Implementing Medical Rehabilitation for Addicts, Abusers, and Victims of Narcotics Abuse who are in Process or who have been Decided by the Court from the patient to undergo medical rehabilitation according to the therapy plan determined by the assessment team signed by the patient and family guardian.

post-treatment program. During the initial inpatient program, convicts are required to undergo inpatient rehabilitation for at least three months. After completing the initial inpatient program, convicts can undergo a follow-up inpatient program or an outpatient program, depending on the severity of their addiction as determined by the results of the follow-up assessment.

Advanced inpatient programs are provided to patients with one or more of the following conditions: a pattern of dependent use, not demonstrating emotional mental stability during initial hospitalization, experiencing physical and/or psychiatric complications, and/or having had a history of previous rehabilitation therapy. Outpatient programs are provided to patients with one or more of the following conditions: a pattern of recreational use, a primary substance used, used is marijuana or amphetamines, or the main substance used is opioids, but the person concerned has been in recovery before being involved in the crime, or has been actively undergoing a previous maintenance therapy program, is under 18 years of age, and/or does not experience physical and/or psychiatric complications.

In the next step, patients who participate in the outpatient follow-up program must undergo check-ups at the outpatient unit of the drug convict medical rehabilitation facility with a frequency of at least 2 (two) times a week depending on the patient's condition to obtain psychosocial intervention services, relapse prevention and medical therapy as needed and undergo urine tests periodically or at any time. When the addict has passed the rehabilitation period, the addict has the right to undergo social rehabilitation and a return to society program in accordance with applicable laws and regulations. Drug convict medical rehabilitation facilities are expected to collaborate with government-owned or community-owned social rehabilitation centers, or with community-based organizations that provide after-care services.

Medical rehabilitation facilities for drug convicts are required to report information about drug addicts undergoing medical rehabilitation programs at their facility, following the applicable national health information system. In the event of a special situation where a drug addict undergoing a medical rehabilitation program escapes, self, does not comply with therapy, commits violence that endangers the lives of others or commits a violation of the law, then the hospital receiving the convict's medical rehabilitation is obliged to provide a report to the prosecutor's office that submitted it.

3.2. Weaknesses of Criminalizing Rehabilitation Measures for Children as Drug Addicts

Although rehabilitation is seen as a more humane and recovery-oriented approach, this mechanism still faces several fundamental weaknesses when applied to children who are addicted to drugs. One of the most prominent

weaknesses is the suboptimal provision of rehabilitation facilities for services that truly meet children's developmental needs. Many rehabilitation institutions still adopt an adult therapy approach, so the recovery process often neglects the psychological, social, and emotional factors typical of adolescence, which are crucial for the success of long-term rehabilitation.²⁸

Rehabilitation for children addicted to narcotics is essentially designed as a more humane approach than conventional criminal sanctions. However, this model of punishment still has several weaknesses that impact its success. One fundamental weakness lies in the limited facilities and infrastructure of rehabilitation institutions, which are not evenly distributed across all regions. Many rehabilitation facilities lack adequate professional staff, both in terms of number and competence, resulting in suboptimal recovery processes for children and a tendency to purely administrative in nature without a comprehensive psychosocial approach.²⁹

Another weakness is evident in the coordination between agencies, such as the courts, the Correctional Institutions (Bapas), rehabilitation institutions, social welfare workers, and the police. Unsynchronized coordination often leads to inconsistencies in the implementation of rehabilitation, from the assessment of children's needs (assessment), intervention plans, to post-rehabilitation monitoring. This lack of integration makes it difficult to achieve the goal of rehabilitation as a long-term recovery process, especially when children return to risk-laden environments without adequate follow-up support.³⁰

On the other hand, rehabilitation also faces obstacles at the family level. Many families lack a sufficient understanding of the importance of emotional support and environmental stability in a child's recovery process. Without family support, children are more vulnerable to relapse after leaving rehabilitation institutions. Social stigma exacerbates the situation, as some communities still view children addicted to drugs as perpetrators of crimes, not victims in need of help, making social reintegration more difficult.³¹ The current problem is Shame and fear are still obstacles for families to avoid reporting to the National Narcotics Agency (BNN) if a family member becomes a drug victim. They are embarrassed if others find out if their child or sibling is involved in drugs. They are also afraid that if they report to the BNN, the child or family member involved in drugs will be prosecuted, so they decide not to report. Shame about family shame being known and fear of reporting for fear of legal action remain obstacles to rehabilitation for underage addicts.

²⁸ Ahmad Dahlan, *Child Protection-Based Narcotics Prevention Policy*, UNISSULA Press, 2019.

²⁹ M. Arief Amrullah, *Narcotics Control Policy through a Rehabilitation Approach*, Sinar Grafika, 2018. p. 97.

³⁰ Faridah Hanim (UNISSULA), *Implementation of Rehabilitation Policy for Narcotics Addicts*, Sultan Agung Islamic University Law Journal, Vol. XX.

³¹ Marlina, *Juvenile Criminal Justice in Indonesia*, Refika Aditama, 2012. p.102

Furthermore, there remains a strong social stigma against children who are addicted to drugs. Society often views them as "criminals" rather than "victims of abuse," thus hindering children from gaining social acceptance, educational opportunities, and accessing positive activities.³² This stigma not only weakens the spirit of recovery, but also creates new social pressures that can trigger stress and push children back into addictive behavior.

Another weakness lies in post-rehabilitation supervision. Many children who have completed rehabilitation do not receive consistent follow-up support from their families, schools, or social institutions. This lack of supervision and social reintegration programs makes it difficult for children to break out of their patterns of delinquency.

long-term social interaction and increases the risk of relapse.³³ In other words, the success of rehabilitation is not only determined by the process during the time in the institution, but also by the design of ongoing supervision and support after the child returns to his social environment.

The final touch to this weakness is the issue of the regulatory framework, which, while providing ample space for rehabilitation, still leaves gaps in its implementation. Several studies have shown that law enforcement officials still have varying understandings regarding the use of rehabilitative approaches for children, resulting in disparities in decisions and treatment methods. The absence of integrated technical guidelines with a child protection perspective often means that rehabilitation implementation emphasizes procedural compliance rather than child-centered recovery.³⁴

From an Islamic legal perspective, children caught in drug abuse are viewed not merely as perpetrators, but rather as those in need of protection, guidance, and moral restoration. However, while punishment through rehabilitation has a humanitarian mission, there are several weaknesses that need to be considered when viewed from the perspective of sharia principles. First, rehabilitation in the modern legal system often emphasizes only the medical and psychological aspects.

while Islamic law teaches that addiction healing cannot be separated from spiritual recovery.¹ Without integration between medical therapy and moral development, the rehabilitation process does not reflect the *tazkiyatun nafs* (soul purification) approach which is the core of healing deviant behavior according to Islamic teachings.

³² AF Zainuddin, *Social Stigma in Handling Child Victims of Drug Abuse*, UNISSULA Law Review, 2022.

³³ S. Supriyanto, *Model of Guidance and Supervision of Children After Narcotics Rehabilitation*, Semarang: UNISSULA Publishing, 2021. p. 87

³⁴ Abdul Syukur (UNISSULA), *Criminal Law Policy in Handling Narcotics*, UNISSULA Law Journal.

Furthermore, rehabilitation continues to face effectiveness challenges because not all rehabilitation institutions align their approach with the values of moral development (*islah al-akhlaq*). Islam emphasizes the importance of a conducive environment, intensive mentoring, and moral role models to help children recover from addiction. If rehabilitation facilities fail to create an adequate moral-spiritual environment, the recovery process could potentially be suboptimal, leading children to relapse into abusive behavior after completing the rehabilitation program.

From a utility perspective, Islamic law emphasizes the principles of *maslahah* (general benefit) and *dar'ul mafasid* (preventing harm). Although rehabilitation measures are intended to improve the child's condition, their implementation is often hampered by limited facilities, limited professional staff, and a lack of family and community support. This situation raises doubts about whether rehabilitation truly brings maximum benefit to the child or whether it actually leads to other undesirable consequences, such as social stigma, interruption of education, or loss of self-confidence.

4. Conclusion

Based on the results of the discussion regarding the Effectiveness of Criminal Rehabilitation Measures for Children as Drug Addicts Reviewed from the Perspective of Child Protection Law (Study of Decision No. 60/Pid.Sus-Anak/2022/Pn Btm) the following conclusions can be drawn: 1. The sentencing of rehabilitation measures for child drug addicts is normatively in accordance with child protection principles, particularly the principle of the best interest of the child. The Juvenile Criminal Justice System Law and the Narcotics Law provide ample scope for rehabilitative measures through assessment, diversion, and the establishment of medical and social rehabilitation as alternative forms of punishment. However, many assessment processes are conducted formally, indefinitely, and fail to consider the child's level of dependency, psychological condition, and social environment. This results in rehabilitation often not meeting the child's individual needs. 2. The weakness lies in the weak coordination between the courts, Bapas, BNN, rehabilitation institutions, schools and social services and the capacity of rehabilitation institutions is still limited, especially institutions that are truly child-friendly, have professional staff who understand child development psychology, as well as providing specialized programs for children. As a result, children are often placed in public facilities, potentially leading to new traumatic experiences. 3. The effectiveness of rehabilitation is greatly influenced by family and social support. Rehabilitation will fail if a child returns to a previously negative environment without adequate guidance and supervision from parents or guardians. Family support is a crucial factor in the success of a child's social reintegration. 4. Overall, rehabilitation measures can be considered effective if implemented consistently,

multidisciplinary, and sustainably, taking into account psychological, social, and family factors, as well as inter-agency coordination. Effectiveness is achieved when the child fully recovers, does not return to drug use, and successfully returns to social life in a healthy and safe manner.

5. References

Journals:

A.F. Zainuddin, Stigma Sosial dalam Penanganan Anak Korban Penyalahgunaan Narkotika, *UNISSULA Law Review*, 2022.

Abdul Syukur (UNISSULA), Kebijakan Hukum Pidana dalam Penanganan Narkotika, *Jurnal Hukum UNISSULA*.

Badan Narkotika Nasional, *Indonesia Drugs Report 2023*, BNN, Jakarta, hlm. 15.

Depri Liber Sonata “Metode Penelitian Hukum Normatif Dan Empiris: Karakteristik Khas Dari Metode Meneliti Hukum”, *Fiat Justisia Jurnal Ilmu Hukum*, Fakultas Hukum Universitas Lampung, Vol. 8, Nomor 1 Januari-Maret 2014.

Faridah Hanim (UNISSULA), Implementasi Kebijakan Rehabilitasi bagi Pecandu Narkotika, *Jurnal Hukum Universitas Islam Sultan Agung*, Vol. XX.

Guntarto Widodo, Sistem Pemidanaan Anak Sebagai Pelaku Tindak Pidana Perspektif Undang-Undang Nomor 11 Tahun 2012 Tentang Sistem Peradilan Pidana Anak, *Jurnal Surya Kencana Dua: Dinamika Masalah Hukum dan Keadilan*, Vol. 6 No.1, 2016, hlm. 3

Hamzah Hasan Dosen Fakultas Syariah dan Hukum UIN Alaudin Makasar, Menulis Tentang Ancaman Pidana Islam Terhadap Penyalahgunaan Narkoba, *Jurnal Desember* 2012.

Siti Fadjar Pramudyani (UNISSULA), Perlindungan Anak dalam Perspektif Sistem Peradilan Pidana Anak, *Jurnal Hukum UNISSULA*, 2020.

Surah Al-Bayyinah Ayat 5, *Al-quran dan terjemahannya Al-Hannan*, Raja Quran’y, 2012

Ulang Mangun Sosiawan, Prespektif Restoraktif Justice sebagai Wujud Perlindungan Anak yang Berhadapan dengan Hukum, *Jurnal Penelitian Hukum DE JURE*, Vol.16, No.14, hlm. 428

United Nations, *Convention on the Rights of the Child*, 1989.

Books:

- Abdul kadir Muhammad, *Hukum dan Penelitian Hukum*, Bandung : Citra Aditya Bakti, 2004.
- Abu Huraerah, *Kekerasan Terhadap Anak*, Bandung: Nuansa Cendikia, 2018.
- Afiatin Tina, *Pencegahan Penyalahgunaan Narkoba*, Gadjah Mada University Press, Yogyakarta, 2008.
- Bagir Manan, dikutip Gatot Supramono, *Hukum Acara Pengadilan Anak*, Djambatan, Jakarta,, 2000.
- Barda Nawawi Arief, *Masalah Penegakan Hukum dan Kebijakan Hukum Pidana*, Kencana, Jakarta, 2018.
- C. Ray Jeffery, dikutip Mahmud Mulyadi, *Criminal Policy, Pendekatan Integral Penal Policy dan Non-Penal Policy dalam Penanganan Kejahatan Kekerasan*, Pustaka Bangsa Press, Medan, 2008.
- Edwin H. Sutherland, *Principles of Criminology*, Chicago: Lippincott, 1939. Eko Supriyadi, *Hak Asasi Anak dalam Perspektif Hukum dan Implementasinya*, Jakarta: Sinar Grafika, 2015.
- F Asya, *Narkotika dan Psikotropika*, Asa Mandiri, Jakarta, 2009.
- Faridah Hanim (UNISSULA), *Kebijakan Rehabilitasi bagi Pecandu Narkotika dalam Perspektif Perlindungan Anak*, UNISSULA Press, 2021.
- Gatot Suparmono, *hukum Narkoba Indonesia*. Jakarta: Djambatan, 2001.
- Ghodse, Hamid, *Ghodse's Drugs and Addictive Behaviour*. Cambridge University Press, 2010.
- Howard Abadinsky, *Drug Use and Abuse: A Comprehensive Introduction* Belmont: Wadsworth, 2014.
- Howard Becker, *Outsiders: Studies in the Sociology of Deviance*, New York: Free Press, 1963.
- John Rawls, *A Theory of Justice*, Harvard University Press, Cambridge, 1971.
- Johnny Ibrahim, *Teori & Metodologi Penelitian Hukum Normatif*, Bayumedia, Malang, 2018.
- Kartini Kartono, *Patologi Sosial*. Jakarta: Rajawali Pers, 2017.
- Lamintang, *Kitab Pelajaran Hukum Pidana; Leeboek Van Het Nederlanches Straftrecht*, Bandung: Pionir Jaya, 1981.
- Lansdown, Gerison, *The Evolving Capacities of the Child*, UNICEF Innocenti Research Centre, 2005.

- M. Hamdan Bakran Adz-Dzaky, *Konseling dan Psikoterapi Islam*, Yogyakarta: Fajar Pustaka baru, 2004.
- M. Hamdan Bakran Adz-Dzaky, *Konseling dan Psikoterapi Islam*, Yogyakarta: Fajar Pustaka Baru, 2004.
- Noeng Muhajir, *Metodologi Penelitian Kualitatif*, Jakarta: Roke Sarasin, 2020.
- Nur Rochaeti, "Model Restorative Justice sebagai Alternatif Penanganan bagi Anak Delinkuen di Indonesia", *MMH Jilid 37 Nomor 4*, Desember, Tahun 2008.
- O.C. Kaligis dan Soedjono Dirdjosisworo, *Narkoba dan Peradilan di Indonesia, Reformasi Hukum Pidana Melalui Perundang-undangan dan Peradilan*, Kaligis Associates, Jakarta, 2006.
- P.A.F. Lamintang, *Dasar-Dasar Hukum Pidana Indonesia*, Bandung: Sinar Baru, 1984.
- Peter Mahmud Marzuki, *Penelitian Hukum*, Kencana, Jakarta, 2017.
- R. Ismala Dewi, *Sistem Peradilan Pidana Anak Peradilan Untuk Restoratif Justice*, Jakarta: Pusat Pengkajian, Pengolahan Data dan Informasi, 2015.
- R.N.L.O'riordan, Sulaiman, *Seni Penyembuhan Alami*, Jakarta, PT: Pairindo Bungamas Nagari, 2002.
- S. Supriyanto, *Model Pembinaan dan Pengawasan Anak Pasca Rehabilitasi Narkotika*, Semarang: UNISSULA Publishing, 2021.
- Satjipto Rahardjo, *Ilmu Hukum*, Citra Aditya Bakti, Bandung, 2020. Sarwoto, *Dasar-Dasar Organisasi dan Management*, Ghala Indonesia, Jakarta, 1985.
- Teguh prasetyo, *Hukum Pidana*, Raja Grafindo Persada, Jakarta, 2014.
- W. Friedman, *Teori dan Filsafat Hukum*, Jakarta: Raja Grafindo, 1999.
- Warso sasongko, *Narkoba*, Yogyakarta: Relasi Inti Media, 2017.
- Zulkarnain Nasution, dkk, *Modul Penyuluhan Klasikal, Pencegahan Penyalahgunaan Narkoba*, (GAN Indonesia dan Pusat Informasi Masyarakat Anti Narkoba Sumatera Utara (PIMANSU), Medan, 2004.

Regulation:

Attachment to the Regulation of the Minister of Health No. 46 of 2012 concerning Procedures for Implementing Medical Rehabilitation for

Addicts, Abusers, and Victims of Narcotics Abuse who are in Process or who have been Decided by the Court

Constitution of the Republic of Indonesia Year 1945.

Convention on the Rights of the Child (1989).

Criminal Code, Staatsblad 1915 No. 732.

Government Regulation of the Republic of Indonesia No. 25 of 2011 concerning Implementation of Mandatory Reporting for Narcotics Addicts

Law Number 11 of 2012 concerning the Juvenile Criminal Justice System.

Law Number 23 of 2002 concerning Child Protection.

Law Number 35 of 2009 concerning Narcotics.

Internet:

<https://bnn.go.id/penggunaan-narkotika-kalangan-remaja-meningkat/di> akses pada hari Rabu, tanggal 13 Agustus 2025, Pukul 22:18 WIB.

KASUS ANAK PENYALAHGUNAAN NARKOBA DI RIAU MENINGKAT | Komisi Perlindungan Anak Indonesia (KPAI) di akses pada hari Rabu, tanggal 13 Agustus 2025, Pukul 22:18 WIB.

Putusan Pengadilan Negeri Batam No. 60/Pid.Sus-Anak/2022/PN.BTM, Batam Dampak Narkoba di Batam Kota & Usaha Pemberantasan diakses pada tanggal 16 October 2025 pukul 22:00 WIB.