



## Child Perpetrators of Drug Crimes: Legal Protections and Effectiveness in Indonesian Juvenile Justice

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**Abstract.** The widespread prevalence of drug abuse has reached various segments of society, penetrating even remote villages and influencing children whose cognitive abilities are still developing and are easily susceptible. This research aims to achieve two objectives: firstly, to investigate and analyze legal protection efforts for children involved in drug abuse, and secondly, to understand and analyze the forms of legal protection within the juvenile justice system. The study adopts a Juridical Normative approach with a descriptive analytical research specification, outlining the relevant legislation in connection with legal theories and the practical implementation of positive law related to issues concerning children involved in drug abuse. The research consists of two stages in library research and field research. Conclusions are drawn using a qualitative juridical normative method. The findings indicate that, firstly, legal protection efforts for children can take the form of safeguarding their freedom and fundamental rights. In the context of child protection in Indonesia, Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection has been enacted. To protect children from drug abuse, Indonesia has also implemented Law No. 35 of 2009 concerning Narcotics. Secondly, the forms of protection provided to children as perpetrators of drug abuse crimes within the juvenile criminal justice system in Indonesia, based on Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, allow for the processing of any child committing a criminal act through the legal process, including children involved in drug abuse, who may undergo formal criminal justice proceedings.

**Keywords:** Children, Drug abuse, Juvenile justice, Legal protection, Narcotics

**Abstrak.** Penyalahgunaan narkoba yang merajalela telah mencapai berbagai lapisan masyarakat, bahkan menembus desa-desa terpencil dan memengaruhi anak-anak yang kemampuan kognitifnya masih berkembang dan mudah terpengaruh. Penelitian ini bertujuan untuk mencapai dua tujuan: pertama, untuk menyelidiki dan menganalisis upaya perlindungan hukum bagi anak-anak yang terlibat dalam penyalahgunaan narkoba, dan kedua, untuk memahami dan menganalisis bentuk perlindungan hukum dalam sistem peradilan pidana anak. Penelitian ini mengadopsi pendekatan Normatif Yuridis dengan spesifikasi penelitian analitis deskriptif, menguraikan undang-undang yang relevan terkait teori-teori hukum dan implementasi praktis hukum positif yang berkaitan dengan masalah anak-anak yang terlibat dalam penyalahgunaan narkoba. Penelitian ini terdiri dari dua tahap, yaitu penelitian kepustakaan dan penelitian lapangan. Kesimpulan diambil dengan menggunakan metode normatif yuridis kualitatif. Temuan menunjukkan bahwa, pertama, upaya perlindungan hukum bagi anak



*dapat berbentuk menjaga kebebasan dan hak-hak dasar mereka. Dalam konteks perlindungan anak di Indonesia, telah diberlakukan Undang-Undang Nomor 35 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 23 Tahun 2002 tentang Perlindungan Anak. Untuk melindungi anak-anak dari penyalahgunaan narkoba, Indonesia juga menerapkan Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika. Kedua, bentuk perlindungan yang diberikan kepada anak sebagai pelaku tindak pidana penyalahgunaan narkoba dalam sistem peradilan pidana anak di Indonesia, berdasarkan Undang-Undang Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak, memungkinkan pemrosesan anak yang melakukan tindak pidana melalui proses hukum, termasuk anak-anak yang terlibat dalam penyalahgunaan narkoba, yang mungkin menjalani proses peradilan pidana formal.*

**Kata kunci:** Anak, Penyalahgunaan narkoba, Peradilan anak, Perlindungan hukum, Narkotika

## 1. Introduction

Children represent the future of the nation, positioned as pivotal contributors to sustainable development and as the custodians of a country's destiny, a role not exempting Indonesia. As the torchbearers of the nation's ideals, children are expected to lead Indonesia into the future, necessitating expansive opportunities and the fulfillment of their rights. According to the Convention on the Rights of the Child, a child is defined as an individual under the age of 18 years, unless local laws determine otherwise.<sup>1</sup> However, despite the international recognition of children's rights, there are obstacles hindering their effective implementation, such as a lack of legal conviction that issues concerning children are a national responsibility requiring collective action. Childhood marks a critical period of identity formation, and the rapid emotional changes experienced by children during this phase can contribute to the emergence of behaviors categorized as juvenile delinquency. Notably, some instances of misbehavior involve the use or consumption of narcotics. Understanding and addressing these challenges are crucial for safeguarding the well-being of children and ensuring their successful transition into responsible adulthood.<sup>2</sup>

In the context of Indonesia, the legal framework recognizes the significance of protecting children. For instance, the enactment of Law No. 35 of 2014, amending Law No. 23 of 2002 concerning Child Protection, reflects a commitment to securing the rights of children. Similarly, the country has established measures, such as Law No. 35 of 2009 concerning Narcotics, aimed at shielding children from drug abuse. Acknowledging and addressing the issues surrounding children's rights and juvenile delinquency, particularly in the context of narcotics abuse, is imperative for fostering a supportive environment that enables children to thrive and contribute positively to the nation's development. It is crucial to recognize children as not only the beneficiaries of protection but also as active participants in shaping the future of Indonesia.

The prevalence of drug abuse among youth and adolescents is undeniable, with a significant number still engaging in drug consumption within our communities. The repercussions on health and future prospects are substantial.<sup>3</sup> The dangers posed by drug abuse to addicts and the younger demographic, especially students,

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<sup>1</sup> Sheila Varadan, "The Principle of Evolving Capacities under the UN Convention on the Rights of the Child," *The International Journal of Children's Rights* 27, no. 2 (2019): 308.

<sup>2</sup> I. Wayan Govinda Tantra, Made Minggu Widianegara, and Luh Putu Suryani, "Pertanggungjawaban Pidana Anak Sebagai Kurir dalam Tindak Pidana Narkotika," *Jurnal Analogi Hukum* 2, no. 2 (2020): 218.

<sup>3</sup> Zeinab Nemati, and Hossein Matlabi, "Assessing behavioral patterns of Internet addiction and drug abuse among high school students," *Psychology research and behavior management* (2017): 43.

are numerous. If the habit of drug consumption is not promptly halted, it will gradually deteriorate the health of the users and inevitably damage their future lives.<sup>4</sup> In societal living, young individuals or students require a conducive and drug-free environment. Therefore, combating drug abuse becomes a collective responsibility starting from the family, extending to the community, and involving the government.<sup>5</sup> In the context of Indonesia over the last five years, based on the report from the Indonesian Child Protection Commission (*Komisi Perlindungan Anak Indonesia* or KPAI), a total of 23,261 individuals have become victims of child rights violations. The victims and perpetrators are predominantly male, accounting for 50.68% males and 49.32% females. Among these cases, 2,218 involve children in drug-related matters, with 91.9% being users and 8.1% involving cases of drug trafficking.<sup>6</sup> This data underscores the urgent need for comprehensive measures to address drug abuse among the youth, highlighting the responsibility shared by families, communities, and governmental authorities in creating an environment that safeguards the well-being and future of the younger generation.

The issue of drug abuse in Indonesia remains an urgent and complex challenge. Over the past decade, this problem has intensified.<sup>7</sup> Evidenced by the significant increase in drug abuse or addiction cases, coupled with the growing diversity and magnitude of drug-related crimes, the problem has become more intricate, with syndicate networks expanding massively.<sup>8</sup> Indonesian society, and indeed global society, is currently facing a highly concerning situation due to the rampant illegal use of various types of drugs. This concern is further exacerbated by the widespread circulation of narcotics that has permeated all layers of society, including among the younger generation.<sup>9</sup> This phenomenon will significantly impact the future of the nation and the state. The behavior of some adolescents, who have visibly disregarded societal norms, values, and legal principles, is

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<sup>4</sup> Olivia Liahugen Flensburg, Björn Johnson, Johan Nordgren, Torkel Richert, and Bengt Svensson, ““Something wasn’t right”—parents of children with drug problems looking back at how the troubles first began,” *Drugs: Education, Prevention and Policy* 29, no. 3 (2022): 256.

<sup>5</sup> Kari Dyregrov, and Lillian Bruland Selseng, ““Nothing to mourn, He was just a drug addict”—stigma towards people bereaved by drug-related death,” *Addiction research & theory* 30, no. 1 (2022): 7.

<sup>6</sup> KPAI. 2022, “No Title,” *kpai.go.id.*, <https://bankdata.kpai.go.id/>.

<sup>7</sup> Devi Siti Hamzah Marpaung, “Bahaya Narkoba serta Perlindungan Hukum terhadap Anak sebagai Pelaku Penyalahguna Narkoba di Kabupaten Purwakarta,” *Jurnal Hukum POSITUM* 4, no. 1 (2019): 98.

<sup>8</sup> Laila Dyah Rachmawati, “Rekonseptualisasi Perlindungan Hukum Terhadap Anak Sebagai Pelaku Tindak Pidana Narkotika dalam Sistem Peradilan Pidana Anak,” *Syariat: Jurnal Studi Al-Qur’an dan Hukum* 7, no. 1 (2021): 119.

<sup>9</sup> Syahrifil Khaerul Hidayat, “Urgensi Diversi dalam Mewujudkan Keadilan Restoratif terhadap Anak yang Berhadapan dengan Hukum pada Tindak Pidana Narkotika= The Urgency of Diversion in Realizing Restorative Justice for Children Who are in Conflict with the Law in Narcotics Crimes” (PhD diss., Universitas Hasanuddin, 2021), 33.

identified as one of the causes of the escalating drug use among the younger generation. In everyday life, many instances of drug abuse by adolescents are still prevalent within society.<sup>10</sup> Recently, juvenile delinquency has been on the rise, extending even to criminal acts that violate provisions in criminal law, necessitating legal accountability before the court.<sup>11</sup> In the context of child protection policies within the Juvenile Criminal Justice System, it is mandated that legal proceedings should be kept as far as possible from cases involving children in conflict with the law.<sup>12</sup> This underscores the need for comprehensive strategies to address the multifaceted challenges posed by drug abuse among the younger generation, with a focus on preventive measures and a legal system that considers the unique circumstances of juvenile offenders.

A criminal verdict that places a child in an educational facility carries significant consequences for the child's growth and development. It influences the formation of the child's character, personality, and self-character, leaving a lasting impact on the child's psychological development in the future.<sup>13</sup> Therefore, these aspects need careful consideration when imposing imprisonment sentences on children. Recent occurrences of criminal acts committed by children, particularly in the context of drug abuse, have garnered attention from families, the government, and society at large. It is essential to address the issue, especially when it involves children engaging in drug abuse, primarily for themselves as users.<sup>14</sup> In the legal perspective, drug users or addicts are considered criminal offenders, and their punishment is regulated by Article 127 paragraph (1) of Law No. 35 of 2009 concerning Narcotics. While individuals are generally held accountable for their actions, close scrutiny reveals that many argue drug addicts and victims of drug abuse are, in fact, victims of syndicates or the chain of drug distribution and trade. This is particularly alarming considering the growing number of children becoming addicts or involved in drug abuse for themselves.<sup>15</sup> The imposition of sanctions, often

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<sup>10</sup> Aaron Hogue, Craig E. Henderson, Timothy J. Ozechowski, and Michael S. Robbins, "Evidence base on outpatient behavioral treatments for adolescent substance use: Updates and recommendations 2007–2013," *Journal of Clinical Child & Adolescent Psychology* 43, no. 5 (2014): 700.

<sup>11</sup> Mega Waty, "Perlindungan Hukum terhadap Konsumen Penerbangan di Indonesia," *Jurnal Gagasan Hukum* 2, no. 01 (2020): 38.

<sup>12</sup> Rico Nur Cahyo, and Irma Cahyaningtyas, "Kebijakan Hukum Pidana Tentang Diversi Terhadap Anak Pelaku Recidive Guna Mencapai Restorative Justice," *Jurnal Pembangunan Hukum Indonesia* 3, no. 2 (2021): 205.

<sup>13</sup> Ni Kd Saras Iswari Gunannanda, and Anak Agung Ngurah Wirasila, "Pertanggungjawaban Pidana Anak Yang Menggunakan Narkotika," *Jurnal Kertha Desa* 9, no. 6 (2021): 67.

<sup>14</sup> Alan Carr, "The evidence base for family therapy and systemic interventions for child-focused problems," *Journal of family therapy* 36, no. 2 (2014): 111.

<sup>15</sup> Winda Nugraha, and Susilo Handoyo, "Penerapan Restorative Justice dalam Penanganan dan Penyelesaian Tindak Pidana Narkotika yang Dilakukan oleh Anak di Kota Balikpapan," *Journal de Facto* 6, no. 1 (2019):3.

involving imprisonment, on children involved in drug abuse does not necessarily resolve the underlying issues. Instead, it is prone to violations against the rights of children. However, the Juvenile Criminal Justice System, as outlined in Law No. 11 of 2012, mandates a prioritization of restorative justice, emphasizing a more rehabilitative and justice-oriented approach.

The formulation of the research problem arises from the critical examination of the background outlined above. The primary concerns are twofold: firstly, understanding the legal protection initiatives for children engaged in drug abuse; and secondly, unraveling the various forms of legal safeguards within the juvenile justice system. This delineation is crucial as it sheds light on the intricate legal landscape surrounding juvenile offenders, particularly those involved in drug-related offenses. The research problem underscores the need to explore and evaluate the efficacy of existing legal protection measures, contributing valuable insights to the ongoing discourse on the rights and well-being of young individuals entangled in the complex web of drug abuse. The research objectives are strategically aligned with the identified problem, aiming to unravel the intricacies of legal protection mechanisms. By systematically investigating and analyzing the legal safeguards for children in the context of drug abuse, the research contributes to a more comprehensive understanding of the challenges and opportunities within the juvenile justice system. Additionally, the scrutiny of diverse legal protection forms within this system provides a nuanced perspective that can inform policymakers, legal practitioners, and stakeholders. Ultimately, the research endeavors to contribute substantively to the improvement of legal frameworks and practices, fostering a more effective and just approach to addressing the complexities surrounding juvenile offenders, specifically those entangled in drug abuse.

## **2. Research Method**

This research aims to scrutinize legal protection initiatives for children involved in drug abuse and to elucidate the various forms of legal safeguards within the juvenile justice system in Indonesia. The legal frameworks under examination encompass Indonesian Law No. 35 of 2014, amending Law No. 23 of 2002 concerning Child Protection, and Law No. 35 of 2009 concerning Narcotics. The research methodology employed is a combination of juridical normative and juridical empirical research methods. The juridical normative approach relies on primary legal materials, involving the examination of theories, concepts, legal principles, and relevant legislation. This approach, also known as the literature review method, involves studying books, legal regulations, and other documents pertinent to the research. The juridical empirical research approach investigates the

process and application of legal protection for children engaged in drug abuse within the juvenile justice system. The research employs both factual and legislative approaches. The factual approach entails an examination of the real conditions in the research area, while the legislative approach utilizes legislation and regulations as the basis for analysis. This multifaceted research methodology facilitates a comprehensive exploration of legal protection measures for children involved in drug abuse within the Indonesian juvenile justice system, contributing valuable insights to legal scholarship and policy development in the realm of juvenile justice and child protection.

### **3. Results and Discussion**

Legal protection efforts for children manifest in safeguarding their freedom and fundamental rights, aligning with the principles outlined in the UN Convention on the Rights of the Child (CRC). The CRC articulates a comprehensive framework of rights for children, encompassing the right to survival, the right to development, the right to protection, and the right to participation. The legal protection principles delineated in the UN Convention on the Rights of the Child (CRC) serve as a comprehensive framework to globally safeguard and advocate for the rights of children. Adopted in 1989, the CRC stands as a landmark international treaty articulating the fundamental human rights of children, grounded in the recognition of the inherent dignity and worth of every child. The principle of non-discrimination (Article 2) is a cornerstone of the CRC, emphasizing the universal application of rights to every child, irrespective of factors such as race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth, or other status. The best interests of the child (Article 3) take precedence in all actions and decisions, guiding lawmakers, policy implementers, and the judiciary to prioritize the child's well-being. Article 6 asserts children's inherent rights to life, survival, and development, with states obligated to ensure their maximal opportunity for growth. The CRC underscores the right of children to express their views (Article 12) and emphasizes protection from violence, abuse, and exploitation (Articles 19, 32, 34, 36). It also enshrines the right to privacy (Article 16) and stipulates that children accused of violating the law should receive dignified treatment with a focus on rehabilitation and reintegration (Article 40). Recognizing education and cultural rights (Articles 28-31), the CRC underscores the significance of education in a child's holistic development. Collectively, these principles establish a foundational framework for global legal systems and policies, ensuring the protection and promotion of the rights and well-being of children worldwide.



More specifically, the right to survival ensures the child's entitlement to a life that fosters well-being, health, and security. The right to development emphasizes the child's right to education, healthcare, and conditions that allow for the fullest growth. The right to protection underscores the need for measures against exploitation, abuse, and harm, while the right to participation emphasizes the child's right to express their views and be involved in decisions affecting their lives. In the context of children involved in drug abuse, protective measures involve governmental and societal efforts encompassing monitoring, prevention, treatment, and rehabilitation. This includes preventive measures such as monitoring and intervention strategies aimed at deterring drug abuse.<sup>16</sup> The UN CRC's emphasis on protection, development, and participation underscores the holistic approach required to address the complex issues surrounding children in vulnerable situations, contributing to the ongoing discourse on effective legal protection and intervention strategies for the well-being of children engaged in drug abuse. This research seeks to analyze how these legal protection mechanisms are implemented and their effectiveness within the Indonesian juvenile justice system.

In the context of safeguarding children throughout Indonesia, particularly concerning legal matters, Law No. 35 of 2014 was enacted to amend Law No. 23 of 2002 on Child Protection. The issuance of this Child Protection Law signifies the state's earnest commitment to shield and provide substantial attention to child protection issues in Indonesia.<sup>17</sup> This commitment is geared towards protecting and upholding the rights of all children, including those who are involved in drug abuse. The Child Protection Law includes provisions for the specific protection of children who fall victim to the misuse of narcotics, alcohol, psychotropic substances, and other addictive substances.<sup>18</sup> Government agencies, institutions, and relevant bodies bear the obligation and responsibility to afford special protection to children, particularly those who are victims of substance abuse, including narcotics, alcohol, psychotropic substances, and other addictive substances. The legal framework established by the Child Protection Law demonstrates a comprehensive approach to addressing the diverse challenges faced by children, acknowledging their vulnerability to the detrimental effects of substance abuse. This research aims to delve into the effectiveness of the legal provisions outlined in the Child Protection Law, evaluating how they are

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<sup>16</sup> Romli Atmasasmita, *Peradilan Anak Di Indonesia* (Bandung: Mandar Maju, 1997), 21.

<sup>17</sup> Barda Nawawi Arief, *Bunga rampai kebijakan hukum pidana* (Jakarta: PT Prenada Media Group, 2016), 99.

<sup>18</sup> Rajarif Syah Akbar Simatupang, Abdul Hakim Siagian, and Rizkan Zulyadi, "Kajian Hukum Terhadap Anak Yang Melakukan Tindak Pidana Narkotika Dalam Perspektif Kriminologi Studi di Polresta Deli Serdang," *Journal of Education, Humaniora and Social Sciences (JEHSS)* 5, no. 2 (2022): 1138.



implemented and their impact within the Indonesian juvenile justice system. Analyzing the specific measures for protecting children victimized by substance abuse contributes valuable insights to the broader discourse on child protection and juvenile justice in the context of Indonesia's legal landscape.

In the endeavor to shield children from drug abuse, Indonesia has instituted Law No. 35 of 2009 concerning Narcotics. This legislation empowers the government to oversee all activities related to narcotics, encompassing efforts to prevent the involvement of underage children in drug abuse and trafficking. The law prioritizes preventive measures, aiming to protect the younger generation and school-aged children from narcotics abuse. Strategies include incorporating education on narcotics into the elementary to upper-level school curricula.<sup>19</sup> The legal framework established by Law No. 35 of 2009 reflects a proactive approach in addressing the vulnerabilities of children to the threats posed by narcotics. This research aims to analyze the implementation and efficacy of these preventive measures within the Indonesian context, contributing insights to the broader discourse on juvenile justice and child protection. Evaluating the inclusion of narcotics education in school curricula provides a nuanced understanding of the multifaceted strategies employed to safeguard children and youth from the perils of drug abuse.

The protection afforded to children involved in drug abuse within the juvenile criminal justice system in Indonesia is defined by Law No. 11 of 2012 on the Juvenile Criminal Justice System. According to this law, every child engaged in criminal activities, including those abusing narcotics, can be processed within the formal criminal justice system, similar to adult offenders. The JJS Law integrates all components of the criminal justice system to handle cases of juvenile delinquency. Firstly, the police play a role when a delinquent child first encounters the criminal justice system. Secondly, prosecutors and parole boards decide whether the child should be released or processed in juvenile court. The third stage involves juvenile courts, determining placement options ranging from release to institutionalization. The fourth and final stage encompasses the institutions responsible for carrying out the sentences.

The juvenile justice system encompasses all activities related to the examination and resolution of cases involving the interests of children. This includes activities carried out by the police, prosecutors, judges, and other officials, all of which must be guided by the principle of the well-being and interests of the child.<sup>20</sup> Legal protection for children in the criminal justice system in Indonesia can be observed

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<sup>19</sup> Ni Kd Saras Iswari Gunannanda, and Anak Agung Ngurah Wirasila, "Pertanggungjawaban Pidana Anak Yang Menggunakan Narkotika," *Jurnal Kertha Desa* 9, no. 6 (2021): 67.

<sup>20</sup> Nevey Varida Ariani, "Implementasi Undang-Undang Nomor 11 Tahun 2012 tentang sistem peradilan pidana anak dalam upaya melindungi kepentingan anak," *Jurnal Media Hukum* 21, no. 1 (2014): 16.

throughout its entire legal process, from the investigative stage, arrest and detention, prosecution, trial, and rehabilitation.<sup>21</sup> The entire process must be carried out in accordance with the provisions of the Juvenile Justice Law and should prioritize the needs, development, and growth of the child, encompassing their mental, physical, and social well-being, as well as the interests of the community in various forms.

Firstly, the investigation is conducted by specialized investigators appointed based on the decision of the Chief of the Indonesian National Police or other designated officials. This implies that investigators specializing in children have met certain requirements, including experience as investigators, a genuine interest and dedication, an understanding of child-related issues, and completion of technical training on juvenile justice. Investigation of cases involving children, as stipulated in Article 29 of the Juvenile Justice Law, mandates that investigators actively seek diversion within a maximum of 7 (seven) days after the commencement of the investigation. Investigators compile a report on the child's case, the background of the child, and the reasons for delinquent behavior, conducting interviews with sensitivity and patience. The emphasis throughout the process is on safeguarding the rights and well-being of the child, aligning with the overarching objective of promoting the child's best interests within the juvenile justice system.

Secondly, regarding apprehension and detention, the apprehension of a child for investigative purposes is limited to a maximum of 24 (twenty-four) hours, during which the child must be placed in a specialized facility for children. If such a facility does not exist in the area, the child is entrusted to a Social Welfare Institution (*Lembaga Penyelenggaraan Kesejahteraan Sosial/LPKS*). The apprehension of a child must be conducted humanely. Subsequent to apprehension, detention may be applied. The option for detention implies that it is not obligatory; rather, it is carried out for investigative purposes and must demonstrate the child's best interests. The detention facility for children must be separate from facilities detaining adults. This is intended to shield the child from negative influences that may be absorbed through cultural contexts shared with adult detainees. Detention, as stipulated in Article 32 of the Juvenile Justice Law, for investigative purposes, should not exceed 7 (seven) days. Upon the investigator's request, the Prosecutor may extend this period for a maximum of 8 (eight) days. Once this period concludes, the child must be released in accordance with the law. The extension of the detention period is contingent upon the Prosecutor's judgment of the ongoing investigative necessities. It is imperative to underscore that the entire process, from apprehension to potential detention, is meticulously designed to safeguard the

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<sup>21</sup> Bimo Bayu Aji Kiswanto, and Anis Mashdurohatun, "The Legal Protection Against Children Through A Restorative Justice Approach," *Law Development Journal* 3, no. 2 (2021): 223.

child's rights, ensuring that each step aligns with the overarching objective of promoting the child's best interests within the juvenile justice framework.

The subsequent stage involves the process of legal prosecution. In cases involving juveniles, the prosecution is conducted by a Prosecutor appointed through the decision of the Attorney General or another official designated by the Attorney General. According to Article 42 of the Juvenile Justice Law, the Prosecutor is obligated to actively pursue diversion within a maximum of 7 (seven) days upon receiving the case file from the investigator. Following this, the subsequent step is the trial, where the examination and adjudication of juvenile cases at the initial level are presided over by a single judge. This judge is required to initiate diversion within a maximum of 7 (seven) days after being appointed as a Judge by the Chief of the District Court. The final phase is centered on rehabilitation. Juveniles sentenced to imprisonment are placed in a specialized institution known as the Special Child Rehabilitation Institution (*Lembaga Pembinaan Khusus Anak/LPKA*). These juveniles possess entitlements to receive guidance, counseling, supervision, assistance, education, training, and other rights as stipulated by regulatory frameworks. The LPKA is mandated to arrange educational programs, skill training, rehabilitation initiatives, and the fulfillment of other rights in accordance with legal provisions. Social rehabilitation counselors conduct research in the social domain to determine the effective implementation of educational and rehabilitation programs. Oversight of the execution of these programs is incumbent upon the correctional institution, as mandated by Article 85 of the Juvenile Justice Law. This comprehensive procedural framework ensures that legal proceedings concerning juveniles prioritize their well-being, developmental needs, and rehabilitation, aligning with the established principles of the juvenile justice system.

Children, particularly those implicated in criminal activities, encounter a multitude of detrimental consequences when integrated into the criminal justice system. These adversities encompass various forms of violence, including physical, psychological, and sexual abuse.<sup>22</sup> Physical violence, such as beating, torture, hair pulling, slapping, cigarette burning, placement in detention with adult offenders, and other inhumane acts, is frequently observed in cases involving children.<sup>23</sup> Safeguarding children necessitates a more holistic approach beyond the confines of the criminal justice system; this is achievable through the utilization of criminal justice alternatives, commonly referred to as diversion. Addressing these challenges entails the collaborative efforts of offenders, victims, both families, and pertinent

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<sup>22</sup> Barda Nawawi Arief, *Bunga rampai kebijakan hukum pidana* (Jakarta: PT Prenada Media Group, 2016), 102.

<sup>23</sup> I. Wayan Govinda Tantra, Made Minggu Widiantera, and Luh Putu Suryani, "Pertanggungjawaban Pidana Anak Sebagai Kurir dalam Tindak Pidana Narkotika," *Jurnal Analogi Hukum* 2, no. 2 (2020): 218.

stakeholders. Their cooperation aims to attain a just resolution that prioritizes restoration over punitive measures, aligning with the principles of restorative justice advocated by Ariani et al. (2019).<sup>24</sup> Consequently, mitigating the vulnerabilities of children engaged in criminal conduct demands a comprehensive strategy that transcends traditional criminal justice processes. This approach underscores the importance of restoration and equity in resolving issues involving the child, offender, victim, and their respective families.

According to Article 1, paragraph 7 of the Juvenile Justice System Law in Indonesia, diversion is defined as the redirection of juvenile case resolution from the criminal justice process to alternative procedures outside the criminal justice system. The mandatory implementation of diversion is emphasized during the stages of investigation, prosecution, and examination of juvenile cases within the District Court. This obligation applies specifically to cases where the criminal act carries a potential imprisonment term of less than 7 years and does not involve repeat offenses. One significant challenge in ensuring legal protection for children within the Indonesian criminal justice system lies in the limited awareness of children's rights and the importance of legal safeguards among various stakeholders, including parents and families. This lack of understanding can contribute to misconceptions about the criminal justice process and the entitlements of children. Moreover, the criminal justice system in Indonesia faces resource constraints, encompassing both human and financial aspects. The shortage of experienced judges, social workers, and professionals dedicated to juvenile cases may impede the effectiveness of the judicial process. To enhance the legal protection of children, there is a crucial need for legal clarity regarding sanctions, rehabilitation strategies, and preventive measures to optimize the safeguarding of children involved in the criminal justice system.

The findings showed that the legal protection efforts for children involved in drug abuse in Indonesia reflect a holistic approach, integrating surveillance, prevention, treatment, and rehabilitation. This collaborative effort between the government and the community aligns with the principles outlined in the UN Convention on the Rights of the Child (CRC), emphasizing the comprehensive framework to globally safeguard and advocate for children's rights. The CRC, adopted in 1989, stands as a landmark international treaty, underlining the fundamental human rights of children based on the recognition of their inherent dignity and worth. The CRC's principles, including non-discrimination, best interests of the child, right to life, survival, and development, and protection from violence, exploitation, and abuse, provide the foundational framework for global

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<sup>24</sup> Ni Made Ita Ariani, Ni Putu Rai Yulianti, and Dewa Gede Sudika Mangku, "Implementasi Undang-Undang Nomor 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak Terhadap Curanmor yang dilakukan Oleh Anak di Kabupaten Buleleng (Studi Kasus Perkara Nomor: B/346/2016/Reskrim)," *Jurnal Komunitas Yustisia* 2, no. 2 (2019): 100.

legal systems and policies. In the context of children involved in drug abuse, these principles necessitate a nuanced and multidimensional approach, incorporating preventive measures, rehabilitation, and protection.

The research contributes theoretically by highlighting the CRC's principles as a guide for effective legal protection strategies. The right to survival underscores the need for well-being and security, the right to development emphasizes education and healthcare, and the right to protection necessitates measures against harm. The right to participation affirms children's involvement in decisions affecting their lives. This theoretical framework informs the analysis of legal protection mechanisms within Indonesia's juvenile justice system. Specifically, Indonesian laws, such as Law No. 35 of 2014 amending Law No. 23 of 2002 on Child Protection, demonstrate the state's commitment to safeguarding children, including those involved in drug abuse. The legal provisions outlined in this law address the unique challenges faced by these children, emphasizing protection against substance abuse and exploitation.

Furthermore, the enactment of Law No. 35 of 2009 concerning Narcotics showcases Indonesia's proactive stance in preventing children's involvement in drug abuse. The incorporation of narcotics education into school curricula reflects a comprehensive strategy to protect the younger generation from the perils of substance abuse. Within the juvenile criminal justice system defined by Law No. 11 of 2012, the emphasis on diversion as an alternative to traditional criminal justice processes highlights a commitment to restorative justice principles. This approach involves collaboration among offenders, victims, families, and stakeholders to achieve a fair resolution that prioritizes restoration over punitive measures. Challenges, such as limited awareness of children's rights and resource constraints, underscore the need for legal clarity and increased resources dedicated to juvenile cases. The research aims to analyze the effectiveness of legal provisions, implementation strategies, and their impact on protecting children within the Indonesian context. It contributes valuable insights to the broader discourse on juvenile justice, child protection, and the implementation of legal safeguards in the context of drug abuse among children in Indonesia.

#### **4. Conclusion**

In conclusion, efforts to protect children involved in drug abuse in Indonesia encompass a comprehensive approach, involving surveillance, prevention, treatment, and rehabilitation implemented collaboratively by the government and the community. Law No. 11 of 2012 concerning the Juvenile Justice System plays a pivotal role in providing legal protection for children facing legal issues, particularly in cases related to drug abuse, covering those in conflict with the law

as well as victims and witnesses of criminal acts. This legislation establishes safeguards for children across crucial stages such as arrest, detention, investigation, prosecution, trial, and rehabilitation.

The theoretical implications of these findings underscore the significance of a well-defined legal framework in safeguarding the rights and well-being of children within the criminal justice system. The mandatory diversion process outlined in the Juvenile Justice System serves as a noteworthy theoretical foundation, emphasizing the importance of alternative approaches to traditional punitive measures in resolving juvenile criminal cases. On a practical level, the study reveals that factors contributing to children engaging in violent criminal acts include both internal and external elements. The practical implication of this insight is the necessity for tailored intervention strategies addressing these multifaceted factors to effectively prevent and mitigate violent criminal behavior among children. Furthermore, the identified legal protections, spanning the investigation process, arrest and detention, application of diversion, and preventive efforts, offer practical guidelines for policymakers, law enforcement agencies, and communities to enhance the overall protection of children involved in criminal activities, particularly those related to drug abuse.

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