

Legal Protection for Victims of Drug Abuse in the Juvenile Criminal Justice System

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Abstract

This study examines legal protection for children who are victims of drug abuse in the juvenile criminal justice system in Indonesia. With the legal basis regulated in Law Number 35 of 2009 concerning Narcotics and Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA), child victims of drugs are considered to need a rehabilitative approach, not just criminal punishment. This study uses a normative legal method by analyzing related laws and literature studies to identify legal provisions, children's rights, and legal protection mechanisms. The results of the study indicate that although regulations for the protection of child victims of drugs are available, their implementation in the field still encounters obstacles, including limited rehabilitation facilities, lack of understanding of law enforcement officers regarding the rehabilitative approach, and social stigma against children involved in drugs. Based on these results, it is recommended that the government increase the capacity of rehabilitation facilities, provide special training for law enforcement officers, and conduct public education to reduce stigma. With this approach, it is hoped that legal protection for child victims of drugs can be more effective and in line with the best interests of the child.

Keywords : *Legal Protection, Drug Abuse, Children*

INTRODUCTION

The phenomenon of drug abuse in Indonesia continues to show a worrying trend, especially related to the involvement of children and adolescents as victims. Children who fall into drug abuse not only become victims of the negative impacts of the drugs themselves but also often face legal consequences that worsen their psychological and social conditions. As drug users, these children are vulnerable to stigma from society, loss of the right to proper education, and mental health disorders. Therefore, efforts to provide legal protection for child victims of drug abuse are very important and require special attention. (Lukman et al. 2021)

Drug abuse is a serious problem faced almost all over the world, including Indonesia. Based on data from the National Narcotics Agency (BNN), the number of drug abuse among children and adolescents continues to increase from year to year. This situation is exacerbated by easy access to drugs in their social environment. Some children may be encouraged to try drugs due to social pressure or peer influence, while others are trapped in situations that take advantage of their ignorance regarding the risks of drugs. With the high risk of children being involved in drug abuse, legal protection efforts for them must be carried out systematically and comprehensively. (MEDAN, n.d.)

Law No. 35 of 2009 concerning Narcotics regulates special provisions for drug users, including children involved in drug abuse. Article 127 of Law No. 35 of 2009 states that drug users of class I,

II, and III are required to undergo medical and social rehabilitation. This provision provides an opportunity for child users to receive proper treatment rather than undergoing criminal punishment. However, the reality on the ground shows that law enforcement against child victims of drug abuse is often still carried out repressively, which is contrary to the principles of child protection and rehabilitation mandated by the law.

In addition, Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA) provides legal protection for children in conflict with the law, including children who are victims of drug abuse. (Lukman et al. 2021) Article 3 of the SPPA Law explains that the juvenile criminal justice system must uphold the principles of justice, humanity, and protection of children's rights. This approach emphasizes the importance of recovering children from the negative impacts of the crimes they commit or experience, including in cases of drug abuse. A rehabilitation-based approach is very appropriate for child victims of drugs, considering that they need medical assistance and psychological support to recover.

The juvenile criminal justice system in Indonesia is designed to meet the best interests of children in conflict with the law. One approach introduced in the SPPA Law is the diversion system, which allows for the resolution of children's cases outside the court process. Article 7 paragraph (1) of the SPPA Law states that "diversion must be attempted at the level of investigation, prosecution, and examination of children's cases in court." With this provision, children involved in narcotics cases should be prioritized to undergo rehabilitation and not be directed directly to the formal justice system, except in certain circumstances that require a formal legal process. (Mercy 2016)

However, the implementation of this law in the field still encounters many obstacles. Many law enforcement officers do not fully understand the importance of a rehabilitative approach for children involved in drug abuse. Several cases show that children who should receive treatment are punished like other criminals. This is due to a lack of understanding of the applicable regulations and the lack of special rehabilitation facilities for children. As a result, many children lose the opportunity to recover from drug addiction and are instead trapped in an environment that worsens their condition. (Cape 2022)

The issue of legal protection for child drug victims also involves various other aspects, such as mental health and social integration. Children who are victims of drug abuse often experience psychological disorders, which if not handled properly, can have long-term impacts on their lives. Therefore, a comprehensive approach is needed to handle cases of drug abuse in children, not only from a legal perspective but also from a health and social perspective. In this case, there needs to be cooperation between the government, legal institutions, health institutions, and the community to create a conducive environment for the recovery of child drug victims.

In addition to the above issues, there is also the issue of stigma and discrimination against children who are victims of drug abuse. This stigma makes children feel marginalized and difficult to reintegrate into society. In the end, these children tend to repeat the same actions or even fall into other criminal activities. Handling child victims of drugs should involve a rehabilitation process that not only focuses on recovery from drug addiction but also provides support to return them to the social environment with confidence and without negative stigma.

Given the complexity of the problem of legal protection for child victims of drug abuse, there needs to be an in-depth study of the role of the juvenile criminal justice system in handling these cases. This study will focus on a legal analysis of the legal protection provided by Law No. 35 of 2009 concerning Narcotics and Law No. 11 of 2012 concerning the Juvenile Criminal Justice System.

The main focus is to assess how these laws are implemented in the field and to what extent the juvenile criminal justice system is able to provide adequate protection for child victims of drugs.

In this study, it is expected to find a more comprehensive understanding of the legal protection applied in the juvenile criminal justice system, as well as the challenges that arise in the implementation of this policy. Thus, it is expected that this study can provide policy recommendations to improve the protection system for child victims of drug abuse to be more effective and in favor of the best interests of the child.

METHOD

This study uses a normative legal approach to analyze legal protection for children who are victims of drug abuse in the juvenile criminal justice system in Indonesia. Normative legal approach (Indra Utama Tanjung 2024) was chosen because this study focuses on the understanding and interpretation of applicable laws and regulations, such as Law Number 35 of 2009 concerning Narcotics and Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA). Through this approach, the study examines various relevant primary legal sources, including articles that regulate the rights, obligations, and legal protection mechanisms for child victims of drugs.

The data sources used in this study consist of primary and secondary legal materials. Primary legal materials include laws and regulations related to legal protection of children in cases of drug abuse. In addition, secondary legal materials in the form of scientific literature, journals, and previous research results are used to strengthen the analysis in this study. The analysis was carried out through legal tracing to identify legal provisions that provide protection for child victims of drugs and the challenges in their implementation. This analysis aims to examine whether the applicable laws are in accordance with the principles of child protection and to find legal loopholes or problems that may exist in their implementation in the field.

RESULTS AND DISCUSSION

Legal Protection Policy for Children in Drug Abuse Cases

Legal protection for children who are victims of drug abuse in Indonesia has a strong basis in various laws and regulations. This is in line with the principles of national and international law that recognize children as individuals who must be protected, especially if they are caught in drug abuse cases. In Indonesia, this legal protection includes rehabilitative aspects regulated in Law No. 35 of 2009 concerning Narcotics and Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA). (Mauldiyani and Prasetyo 2024)

In Article 127 paragraph (2) of Law No. 35 of 2009, it is stipulated that users of class I, II, and III narcotics are required to undergo medical or social rehabilitation. This provision applies not only to adults but also to children who are caught in drug abuse. This rehabilitation is considered part of legal protection because it aims to restore the child's condition and not to impose repressive sanctions. This article reflects the legal view that places children as victims of drug abuse, considering that they often become caught in narcotics due to environmental influences or pressure from irresponsible parties.

Furthermore, the SPPA Law, which serves as the basis for the juvenile criminal justice system, provides broader protection for children in conflict with the law, including those involved in drug abuse. Article 3 of the SPPA Law emphasizes that the juvenile criminal justice system in Indonesia

aims to provide protection, recovery, and guidance for children involved in legal cases. In the context of drug abuse, this approach ensures that the legal process taken does not harm children and instead provides support so that they can recover from drug addiction.

Diversion, which is regulated in Article 7 paragraph (1) of the SPPA Law, is one of the legal efforts that must be taken in resolving cases of children in conflict with the law, including children involved in narcotics cases. Diversion allows for the resolution of cases outside the formal justice system with a more humanistic approach and a focus on rehabilitation. Article 7 paragraph (1) of the SPPA Law states, "Diversion must be attempted at the level of investigation, prosecution, and examination of children's cases in court."

The application of the diversion principle in cases of child drug victims is very relevant, because this approach allows children to undergo rehabilitation programs facilitated by health institutions or rehabilitation institutions appointed by the state, without having to undergo formal legal processes that can worsen their psychological condition. (Mercy 2016) Based on Article 7 of the SPPA Law, this diversion aims to avoid imposing criminal penalties on children and replace them with educational, rehabilitative sanctions or recovery programs that can help these children return to society without the burden of stigma.

Law No. 35 of 2009 concerning Narcotics stipulates that children who are drug users must be prioritized to undergo rehabilitation rather than criminal punishment. Rehabilitation for child drug victims is in line with Article 127 paragraph (3), which states that drug abusers are required to undergo medical and social rehabilitation. The implementation of this provision aims to provide an opportunity for children to recover without having to bear criminal consequences that can damage their future.

In addition, the SPPA Law also emphasizes the principle of restorative justice aimed at restoring the child's condition. This principle is in accordance with Article 9 of the SPPA Law, which directs that the child's legal process focuses on restoring the child's condition rather than punishing. Child victims of narcotics who receive rehabilitation are not only improved in terms of health, but also improved in terms of social and psychological aspects to break the chain of dependency and prevent the possibility of them being involved in drug abuse cases again.

Although the law has provided a strong legal basis for the protection of child victims of narcotics, there are various challenges in implementing this policy in the field. One of the biggest challenges is the lack of special rehabilitation facilities for children, so that those who need rehabilitation often have to undergo the process in the same facilities as adult users. This is contrary to the spirit of the SPPA Law which prioritizes recovery for children and protects them from negative influences that may arise from interactions with adult users.

In addition, many law enforcement officers still do not fully understand the importance of a rehabilitative approach in handling cases of drug abuse by children. In some cases, child victims of narcotics are still treated as perpetrators of criminal acts, without considering their need for recovery from drug addiction. This repressive approach is contrary to the provisions of Article 127 of Law No. 35 of 2009 and Article 3 of the SPPA Law which places rehabilitation as a priority in handling cases of drug abuse in children.

Another challenge is related to the stigma of society towards children involved in drug cases. Children who have undergone rehabilitation often have difficulty returning to school or interacting in their social environment due to the negative stigma. In this case, the legal protection provided by the SPPA Law has not fully touched on the aspect of social reintegration of child victims of narcotics. Therefore, there needs to be an additional policy that can encourage the process of social reintegration

for these children, so that they can live a better life after undergoing rehabilitation. (Ismaidar and Rahmayanti 2023)

Based on the analysis above, there are several policy recommendations to strengthen legal protection for child victims of drug abuse. First, the government needs to increase the number and quality of child-friendly rehabilitation facilities. Thus, children involved in drug cases can undergo the recovery process in a safe environment that suits their needs. Second, special training for law enforcement officers on the importance of a rehabilitative approach needs to be improved so that each officer understands the different approaches in handling cases of children involved in drugs.

Third, the government and society must play an active role in reducing the stigma against child victims of narcotics. Through community education programs, it is hoped that the community can understand that these children are victims who need recovery, not perpetrators who must be shunned. Thus, social reintegration for children who have undergone rehabilitation can run well, and they can return to living their lives with full support from their surroundings.

Fourth, there is a need for cooperation between health, legal, and educational institutions to create a comprehensive recovery program for child drug victims. This program not only covers medical aspects but also supports the psychological and social aspects of these children. In the long term, it is hoped that this program can help reduce the number of children involved in drug abuse cases, while ensuring that they receive maximum legal protection in accordance with the mandate of the law.

Implementation of Legal Protection for Child Victims of Drug Abuse in the Criminal Justice System

The implementation of legal protection for child victims of drug abuse in Indonesia is rooted in several key regulations, namely Law Number 35 of 2009 concerning Narcotics and Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA). Through these regulations, Indonesia seeks to create a balance between law enforcement and rehabilitation efforts that focus on child protection. (Herindrasti 2018)

Article 127 of Law No. 35 of 2009 states that drug users, including children, have the right to undergo rehabilitation rather than be punished criminally. This provision reflects a legal paradigm that views children as victims in need of recovery rather than as perpetrators of crimes. Likewise, the SPPA Law provides specific guidelines for juvenile justice, emphasizing a rehabilitative rather than a repressive approach. Article 3 of the SPPA Law stipulates that the purpose of juvenile criminal justice is to protect and foster children in conflict with the law so that they can develop into better individuals.

However, even though this legal framework has been prepared comprehensively, its implementation in the field still faces various challenges that prevent maximum protection for child victims of drugs. (Haryono, Suhaidi, and Sahlepi 2022) Although regulations related to the protection of child drug victims have been formulated, implementation in the field still encounters many obstacles. One of the main obstacles is the limited number of child-friendly rehabilitation facilities. Rehabilitation of children involved in drugs should be carried out in a safe place and in accordance with their age needs, but in reality, rehabilitation facilities in Indonesia are still limited and do not always separate children from adult users.

The rehabilitation regulation for child drug victims is actually stated in Article 128 of Law No. 35 of 2009 which states that the rehabilitation program for drug abusers includes medical and social rehabilitation. However, the implementation of this rehabilitation is often not optimal because the

existing facilities are still very limited, both in terms of quantity and quality. This deficiency causes many children to have to go through the legal process rather than getting the rehabilitation they need.

In addition to facility constraints, there is still a gap in understanding among law enforcement officers regarding the rehabilitative approach for child drug victims. Many officers do not yet deeply understand the importance of a more humanistic approach in handling drug cases in children. Several cases show that children involved in drugs are still considered as perpetrators of criminal acts, not victims who need recovery. This is contrary to the spirit of the SPPA Law and Article 127 of Law No. 35 of 2009 which should prioritize rehabilitation.

Diversion is a form of protection regulated in the SPPA Law, which allows children to avoid formal justice processes by undergoing rehabilitation or other recovery programs. In cases of drug abuse in children, diversion is an ideal step because it provides an opportunity for children to receive rehabilitation without having to undergo a harsher legal process. Article 7 paragraph (1) of the SPPA Law states that diversion must be a priority in handling children's cases, with the aim of avoiding negative impacts that may arise from the formal justice process.(Zulkarnain 2016)

Diversion in drug cases allows for a more comprehensive approach to children involved in drug abuse. Through rehabilitation programs regulated in the diversion scheme, child drug victims are expected to be able to recover their physical, mental, and social conditions. However, the implementation of diversion in the field is often hampered by the lack of facilities and human resources capable of handling children professionally.

Based on research, the lack of implementation of diversion in drug cases in children in several regions is also caused by the lack of understanding of law enforcement officers about this approach. In fact, with diversion, children can receive treatment without having to feel the negative impact of the justice system. Therefore, it is important for the government and related agencies to continue to socialize the importance of the diversion approach so that it can be implemented effectively.

In addition to the challenges in law enforcement, social stigma is also a major obstacle in efforts to protect and restore child drug victims. This stigma makes many children feel alienated from their social environment, which ultimately worsens their psychological condition and increases their risk of returning to drug use. This shows that legal protection for child drug victims must involve not only legal aspects but also social and psychological approaches.(Perdana, Zarzani, and Fauzi 2018)

Article 32 of the SPPA Law states that the juvenile justice process must be carried out by considering the best interests of the child and in a way that protects their mental and social well-being. However, in reality, the stigma attached to child drug victims makes it difficult for them to reintegrate into society. Here, the role of social institutions and communities is very important to help eliminate this stigma and encourage comprehensive child recovery.

Based on the analysis above, there are several recommendations that can be put forward to improve the implementation of legal protection for child victims of drugs in Indonesia:

1. **Improving the Capacity and Quality of Special Rehabilitation Facilities for Children:**The government needs to build more rehabilitation facilities specifically for children involved in drugs, taking into account their psychological and social needs. These facilities should be designed to provide comprehensive treatment and separate children from adult users.
2. **Special Training for Law Enforcement Officers on Rehabilitative Approach:**Law enforcement officers, including police and judges, need to receive special training on the importance of a rehabilitative approach in handling cases of child drug victims. With a better

understanding, officers can avoid implementing a repressive approach that is detrimental to children.

3. **Strengthening the Implementation of Diversion in the Juvenile Justice System:** Diversion should be prioritized in handling drug cases involving children. The government needs to develop rehabilitation programs that are integrated with diversion schemes for children who are caught in drug addiction, and provide more detailed guidelines on their implementation.
4. **Public Education to Reduce Stigma Against Child Drug Victims:** Government, schools, and communities need to work together to provide public education to reduce the stigma against children who are victims of drugs. This education program must make the public aware that child victims of drugs need support and recovery, not negative stigma.
5. **Collaboration between Legal, Health and Social Institutions for Social Reintegration of Children:** Legal protection for child drug victims is not enough with rehabilitation alone, but also requires support for social reintegration. Legal, health, and social institutions need to work together in reintegration programs that help children adapt back to society and avoid stigma.

Through this analysis, it can be concluded that the implementation of legal protection for child victims of drug abuse still requires various improvements, especially in terms of providing facilities, understanding of law enforcement officers, and eliminating social stigma. Although the law in Indonesia has provided a strong basis for the protection of child victims of drugs, effective implementation still requires cross-sector cooperation to create a more child-friendly justice system. In the future, it is hoped that legal protection for child victims of drugs will not only be limited to health recovery but also support their psychological and social recovery so that they can develop well in society.

CONCLUSION

This study shows that legal protection for children who are victims of drug abuse in Indonesia has a strong basis in legislation, especially through Law No. 35 of 2009 concerning Narcotics and Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA). Both of these laws position children as individuals who have the right to receive legal protection and a humanistic and rehabilitative approach, considering that children are more vulnerable to the negative impacts of the social environment and narcotics.

Through an analysis of Article 127 and Article 128 of Law No. 35 of 2009 concerning Narcotics, it was found that rehabilitation is one of the main priorities for child drug victims compared to criminal punishment. Meanwhile, the SPPA Law emphasizes the importance of diversion as an alternative in the juvenile criminal justice system. Diversion aims to prevent children from the formal justice process, which has the potential to damage their mental and developmental abilities, and to provide a path that focuses more on recovery and social reintegration. However, the implementation of legal protection for child drug victims in the field still faces various challenges. The lack of special rehabilitation facilities for children, the lack of special training for law enforcement officers regarding the rehabilitative approach, and the social stigma that often sticks to children who are caught in drugs are some of the main obstacles that hinder maximum protection for these children.

Therefore, several recommendations have been put forward, such as increasing the number and quality of special rehabilitation facilities for children, expanding training programs for law enforcement officers to understand the humanist approach in handling cases of child drug victims,

and educating the community to reduce the stigma against child drug victims. Cross-sector collaboration between legal, health, education, and social institutions is also very necessary to support the reintegration of these children into society after undergoing rehabilitation. Overall, legal protection for child drug victims requires a comprehensive approach, not only at the regulatory level, but also in implementation and social support. Thus, it is hoped that the juvenile criminal justice system in Indonesia can be more responsive to the recovery needs of child drug victims, so that they can recover and develop in a positive environment and support a better future.

BIBLIOGRAPHY

- Haryono, Haryono, Suhaidi Suhaidi, and Muhammad Arip Sahlepi. 2022. "Police Efforts in Revealing Criminal Acts of International Drug Distribution Networks Reviewed from Law Number 35 of 2009 Concerning Narcotics (Case Study at Medan Police Headquarters)." *Scientific Journal of Metadata* 4 (3): 228–41.
- Herindrasti, Valentina Lusita Sinta. 2018. "Drug-Free ASEAN 2025: Indonesia's Challenges in Combating Drug Abuse." *Journal of International Relations* 7 (1): 19–33.
- Indra Utama Tanjung. 2024. *BASICS OF LEGAL RESEARCH METHODS*. Karanganyar: CV Pustaka Dikara).
https://scholar.google.com/citations?view_op=view_citation&hl=id&user=rToGqjUAAAJ&cstart=20&pagesize=80&citation_for_view=rToGqjUAAAJ:Wp0gIr-vW9MC.
- Ismaidar, Ismaidar, and Rahmayanti Rahmayanti. 2023. "Legal Protection for Children as Victims of Domestic Violence."
- Lukman, Gilza Azzahra, Anisa Putri Alifah, Almira Divarianti, and Sahadi Humaedi. 2021. "Drug Cases in Indonesia and Prevention Efforts Among Adolescents." *Journal of Research and Community Service (JPPM)* 2 (3): 405–17.
- Mauldiyani, Syahda, and Handoyo Prasetyo. 2024. "SIGNIFICANCE OF INTERNATIONAL CRIMINAL LAW IN CASES OF HUMAN TRAFFICKING AGAINST CROSS-COUNTRY WOMEN AND CHILDREN." *Causa: Journal of Law and Citizenship* 5 (3): 61–70.
- Mawaddah, Nida. 2016. "Child Trafficking in Drug Distribution Networks Case Study: Exploitation of Children as Drug Couriers in West Jakarta." Jakarta: Faculty of Social and Political Sciences, UIN Syarif Hidayatullah.
- MEDAN, DRUGS IN THE CITY. nd "THE ROLE OF THE NATIONAL NARCOTICS AGENCY OF NORTH SUMATERA PROVINCE IN HANDLING ABUSE AND DISTRIBUTION."
- Perdana, Surya, Riza Zarzani, and Ahmad Fauzi. 2018. "Design of a Child Criminal Justice Model Based on Penal Mediation." *Collection of Research and Community Service of Lecturers* 1 (1).
- Tanjung, Indra Utama. 2022. "STRATEGY TO ERADICATE DRUG MAFIA (LEGAL POLITICAL APPROACH)." *Judge: Jurnal Hukum* 3 (01): 10–19.
- Zulkarnain, Zulkarnain. 2016. "Drug Abuse in the Perspective of Islamic Law and Positive Law of Indonesia." Postgraduate UIN North Sumatra.