

Rehabilitation as an Alternative to Criminal Justice for Children Who Use Narcotics

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Abstract

Children who use narcotics for personal consumption remain vulnerable to imprisonment because Indonesia's legal framework has not yet provided a clear and consistent basis for access to rehabilitation. This study aims to analyze the criminal policy on rehabilitation for children who abuse narcotics and to formulate a rehabilitation model as a form of recovery independent of criminal punishment. This research employs a normative legal method using statutory and comparative approaches. The findings indicate that diversion, integrated assessment, and rehabilitation have been recognized within the existing legal framework; however, their implementation remains fragmented and dependent on the criminal justice process. Rehabilitation should therefore be positioned as a recovery mechanism independent of criminal punishment for children who use narcotics for personal consumption and are not involved in illicit drug trafficking. Accordingly, harmonization of the legal framework is required by clarifying the legal status of children who abuse narcotics, strengthening multidisciplinary assessment from the earliest stage, and ensuring rehabilitation that is oriented toward the best interests of the child and the protection of children's rights.

Keywords: *Juvenile Criminal Justice, Rehabilitation, Non-Punitive Recovery.*

A. INTRODUCTION

Entering the 20th century, the international community's attention to narcotics issues increased significantly, as evidenced by the Single Convention on Narcotic Drugs in 1961, as amended and supplemented by the 1988 Vienna Protocol (Romli

Atmasasmita, 1997). Narcotics are substances or drugs that can originate from plants or non-plant materials, either in synthetic or semi-synthetic forms, that can alter consciousness, numb sensations, reduce or eliminate pain, and can cause dependency. Various studies show that the number of narcotics abusers in prison is higher than in the general population (Norman, C., 2022). Rapid advancements in technology and science trigger the current increase in narcotics abuse. Narcotics users are not only adults but have spread across all segments of society, including minors (Puteri Hikmawati, 2011). The spread of narcotics among children has reached a stage that is difficult to control, and this situation is very concerning (Mutia Nur Santi, 2021).

At present, children are highly vulnerable to being involved in narcotics-related criminal activities, and there are still child narcotics abusers who receive prison sentences (Christiana & Arthur Josias Simon Runturambi, 2023). Law Number 11 of 2012 on the Juvenile Criminal Justice System (UU SPPA) does not provide regulations regarding rehabilitation as part of the recovery process for children who commit criminal acts, including those who abuse narcotics. Meanwhile, Article 54 of Law Number 35 of 2009 on Narcotics states that only addicts and victims of narcotics abuse are required to undergo rehabilitation, and this provision does not apply to children. Therefore, the protection of child narcotics abusers does not yet reflect justice due to unclear legal norms, resulting in a legal void concerning rehabilitation as part of the recovery process for children.

The continued imprisonment of children for narcotics abuse results from treating rehabilitation as a form of punishment, which does not provide justice and protection for the children, as they are still considered victims of abuse. According to Herbert L. Packer's perspective, penal measures are a form of prevention where rehabilitation

should be prioritized to address the deviant behavior of offenders (Herbert L. Packer, 1968). This view is fundamental, suggesting that punishment should be a last resort. Therefore, placing rehabilitation as a form of recovery rather than punishment can reduce narcotics abuse among children.

Law Number 35 of 2009 on Narcotics conceptually distinguishes between narcotics abusers, narcotics addicts, and victims of narcotics abuse. A narcotics abuser is any person who uses narcotics without lawful authority or in violation of the law, as stipulated in Article 1 point 15. In contrast, a narcotics addict, pursuant to Article 1 point 13, is a person who uses or abuses narcotics and is in a state of dependence, either physically or psychologically. Meanwhile, a victim of narcotics abuse refers to a person who uses narcotics not of their own volition, but because they have been persuaded, deceived, defrauded, coerced, and/or threatened into using them, as explained in the Elucidation of Article 54.

The abuse of narcotics by children has shaped and added to the latest crime patterns. According to data from the National Narcotics Agency (BNN) from 2018 to 2023, the number of child narcotics abusers reached 2,290,000. This is a significant number, indicating the need for new legal breakthroughs to address the increasing narcotics abuse among children. By redefining rehabilitation as part of recovery rather than punishment, legal protection for children can be enhanced without the need for a convoluted judicial process.

Rehabilitation of children as narcotics abusers within the criminal justice system does not necessarily improve their condition, as not all children who abuse narcotics can be rehabilitated by law enforcement officers. This is due to the fact that rehabilitation is still viewed as a form of punishment rather than recovery. If it were

viewed as recovery, children would not undergo a convoluted legal process but would instead be placed directly in institutions that facilitate rehabilitation (Utari et al., 2026; Widowati & Vu Le Giang, 2025). For instance, in Bukittinggi, Indonesia, a child in conflict with the law, identified as AM (16), was arrested by the police for narcotics abuse. Consequently, the police applied the provisions of Law No. 11 of 2012 (HumasResBKT, 2024).

From such a case, it is clear that a child narcotics abuser is subject to criminal punishment, with rehabilitation applied to the suspect and/or defendant during the investigation, prosecution, and court trial processes. Whether the individual is to be rehabilitated or not is determined by a court ruling. This is regulated in Article 127 paragraph (3), which states that if the abuser can be proven or is proven to be a victim of narcotics abuse, the abuser must undergo medical rehabilitation and social rehabilitation. Regarding the issue of placing a child narcotics abuser under criminal punishment, it is evident that this can be aligned with several previous studies, including research conducted by Suseno. This research focuses on rehabilitation for child narcotics abusers. It concludes that the renewal of criminal sanctions for child narcotics abusers should be carried out through legal reconstruction with a restorative justice approach. This approach prioritizes the best interests of the child. It avoids deprivation of freedom by implementing rehabilitation accompanied by education/training based on the recommendations of the Integrated Assessment Team, which is executed with a judge's decree (Suseno, 2023).

The distinction and novelty in the author's research lie in positioning rehabilitation for child narcotics abusers as a form of recovery rather than punishment, without requiring a court ruling. Therefore, there is a need for legal instruments that

regulate the placement of rehabilitation for child narcotics abusers as recovery, not punishment. This would prevent the imposition of criminal sanctions. Such an approach would effectively fulfill the purpose of criminal law as a means of prevention. Additionally, the philosophical basis of rehabilitation should be understood not as the imposition of criminal sanctions but as recovery. It is important to note that rehabilitation as a form of recovery will help alleviate overcrowding in correctional facilities and still effectively aid in the recovery of narcotics abusers (Sidik Purwoko, 2024).

In its development, the implementation of rehabilitation for narcotics abusers has also been influenced by various international instruments ratified by the Government of Indonesia. In this context, this study compares the regulation of rehabilitation in Portugal, Australia, and France. Portugal adopts an approach that places drug users closer to a health-based mechanism rather than criminal punishment. Under Law No. 30/2000, the consumption, acquisition, and possession of narcotics for personal use are classified as administrative offences rather than criminal offences, and such cases are handled through the Commission for the Dissuasion of Drug Addiction. This mechanism applies provided that the narcotics are intended for personal consumption and are not related to illicit trafficking. In the context of children, Portuguese law also allows children or their legal representatives to voluntarily seek healthcare services, with confidentiality guaranteed throughout the therapeutic process.

Unlike Portugal, Australia does not have a single uniform juvenile rehabilitation system at the national level because each state and territory largely regulates criminal law and youth justice. For example, under the Youth Justice Act 1992 of Queensland,

a child who meets certain statutory requirements may be required to participate in a drug assessment and education session. The program includes an assessment of the child's drug use, education concerning narcotics and their effects, and identification of any further treatment needs. Its application depends on several conditions, including the type of drug-related offence, the child's status as an eligible child, any relevant prior offending history, and the child's willingness to participate in the prescribed program.

Meanwhile, France continues to classify the unlawful use of narcotics as a criminal offence, while at the same time providing a mechanism of therapeutic injunction (*injonction thérapeutique*) as an alternative to criminal prosecution. Under Article L3423-1 of the Code de la santé publique, the public prosecutor may order a drug user to undergo treatment or medical supervision. Where the therapeutic measures are properly undertaken and completed in accordance with the applicable requirements, criminal prosecution may not be pursued. Accordingly, the implementation of rehabilitation in France largely depends on the individual circumstances of the drug user, the need for treatment, and compliance with the prescribed medical program.

Accordingly, comparative policy analysis constitutes an important part of identifying the similarities and differences among the regulatory frameworks and policies adopted by different countries. The laws and policies implemented in various jurisdictions are inseparable from the legal systems embraced by each country. Different legal systems have, or have historically had, markedly different approaches to determining questions of fact (Susan Haack, 2014). Therefore, maintaining a criminal justice system that does not place children who abuse narcotics within a

rehabilitation-oriented framework may further aggravate their circumstances and fail to protect them from social stigma.

On this basis, the authors consider it necessary to develop a dynamic concept capable of being applied within a legal system that has not yet fully guaranteed the rights of children who abuse narcotics. The central issue addressed in this study is how a future criminal policy on the rehabilitation of children who abuse narcotics should be developed within the Indonesian criminal law system so that rehabilitation can be implemented as a form of recovery independent of criminal punishment. Such reform is necessary to shift the orientation of treatment from a punitive approach toward one based on health, protection, and the best interests of the child. Accordingly, rehabilitation should no longer be positioned as a consequence of, or an integral part of, criminal sentencing, but rather as an independent recovery mechanism that may be applied on the basis of the child's needs and circumstances.

This study employs normative legal research (Theresia Anita Christiani, 2016) oriented toward legal reform by evaluating the regulation of rehabilitation for children who abuse narcotics within the Indonesian criminal law system and by formulating a rehabilitation model as a form of recovery independent of criminal punishment. The approaches employed are the statute approach and the comparative approach (Soemitro Ronny Hanitijo, 1998), while the perspective of child psychology is used on a limited basis to explain recovery needs, the impacts of criminal punishment, and the principle of the best interests of the child. Primary legal materials include legislation and international legal instruments relating to child protection, narcotics, juvenile criminal justice, and rehabilitation in Indonesia, Portugal, Australia, and France. In contrast, secondary legal materials consist of books, journal articles,

research findings, and official reports. The legal materials were selected based on their relevance to the legal status of children who abuse narcotics, mechanisms for determining rehabilitation, the relationship between rehabilitation and criminal punishment, and the protection of children's rights. They were collected through literature review and legal document research. The materials were analyzed qualitatively using systematic interpretation to examine the interrelationship among legal provisions and teleological interpretation to assess their conformity with the objectives of recovery and the best interests of the child (Masnun, Muh. Ali, Prasetyo, Dicky Eko, 2025). The comparative analysis was conducted functionally by comparing the legal status of children who abuse narcotics, the requirements and procedures for rehabilitation, the competent authorities, the relationship between rehabilitation and judicial proceedings and criminal punishment, and safeguards for the protection of children's rights. The comparison is not intended to promote the direct transplantation of foreign law, but rather to identify functional similarities and differences and to formulate normative lessons appropriate for reforming rehabilitation policy for children who abuse narcotics in Indonesia.

B. RESULT AND DISCUSSION

Rehabilitation Policy for Children Who Abuse Narcotics Independent of Criminal Punishment

Criminal law enforcement against narcotics abuse is an integral part of the policy in monitoring the use of narcotics (Waddell, I, 2017). Children involved in narcotics abuse stem from several factors that should not be immediately viewed as a

contemporary phenomenon and require law enforcement involvement to reduce narcotics abuse cases (Moore, 2020). This juvenile crime also occurs due to children's limited understanding and self-protection within the existing system (Suryani, B, 2018). Therefore, rehabilitation must be implemented as a form of recovery for child narcotics abusers to ensure legal protection and the continuation of the rights and life of the child (Risya Hadiansyah & Nur Rochaeti, 2022).

The concept of “rehabilitative” comes from the Latin word “*habilitatus*”, which is translated as having the ability or tendency to achieve something (Trester, 1981). Rehabilitation is an effort to restore and enable narcotics addicts to live physically and mentally healthy lives, so they can readjust and enhance their skills, knowledge, and abilities within their environment (Sudarsono, 1990). Narcotics abuse by individuals initially stems from curiosity or experimentation, with the hope of experiencing pleasure after using narcotics. Narcotics abusers who have become dependent may relapse repeatedly and progressively worsen if they do not receive proper help and care. Children who are narcotics abusers are often treated the same as traffickers or narcotics dealers as perpetrators of narcotics crimes. Although they commit criminal acts, abusers need treatment and care through rehabilitation more than they need imprisonment, which can worsen their dependency condition.

The basic idea of the rehabilitation policy is based on the need for rehabilitation, which is a human right of every citizen, as recognized and protected in national human rights instruments (Rio Verieza, 2022). During rehabilitation, the emphasis is not only on creating a deterrent effect for past actions but also on offering various positive benefits that help individuals break free from narcotics addiction (Risya Hadiansyah & Nur Rochaeti, 2022). Rehabilitation is also seen as a proportional choice aimed at

avoiding the application of criminal sanctions, which are often purely punitive (Cahyaningtyas, 2018). Moreover, rehabilitation is chosen as the best option for the interests and future of the child (Hawi, A., 2018).

The Indonesian legal framework does not, in principle, merely provide a choice between imprisonment and rehabilitation for children who abuse narcotics. The Juvenile Criminal Justice System Law provides diversion and a restorative justice approach as mechanisms for resolving cases with the aim of preventing children from entering the formal criminal justice process. Pursuant to Article 7 of Law Number 11 of 2012, diversion must be pursued at the stages of investigation, prosecution, and court examination where the offence is punishable by imprisonment of less than seven years and does not constitute a repeat offence. Since narcotics abuse for personal use, as regulated under Article 127 of the Narcotics Law, is punishable by a maximum term of four years' imprisonment for Category I Narcotics, cases involving children charged solely under this provision are, in principle, eligible for diversion. Moreover, Supreme Court Regulation Number 4 of 2014 requires judges to pursue diversion where a child is charged with an offence punishable by imprisonment of less than seven years and is also charged with an offence punishable by imprisonment of seven years or more under subsidiary, alternative, cumulative, or combined charges.

Diversion may facilitate a non-punitive approach because the resulting agreement is not limited to reconciliation or returning the child to their parents, but may also include participation in education or training, community service, and medical and psychosocial rehabilitation. In cases of narcotics abuse for personal use that do not directly involve a victim, Article 9 paragraph (2) and Article 10 of the Juvenile Criminal Justice System Law allow the diversion process to proceed without

the victim's consent by involving the child and their family, a probation officer, and a professional social worker. Accordingly, restorative justice in such cases should be understood as an approach that prioritizes the recovery of the child's condition and social reintegration, rather than merely reconciliation between the offender and the victim. Nevertheless, the success of diversion remains influenced by the legal provisions under which the child is suspected or charged, the results of the social inquiry report, family support, and the achievement of a diversion agreement. Diversion is also implemented only after the child has entered the criminal justice process and therefore does not fully realize rehabilitation that is independent of legal proceedings.

In addition to diversion, investigators possess discretionary authority to act according to their own judgment in the public interest under circumstances of urgent necessity, while remaining subject to applicable laws and professional codes of ethics. In cases involving children, such authority may be exercised to avoid unnecessary arrest or detention, refer children to social and health services, and pursue diversion from the investigation stage. Regulation of the Indonesian National Police Number 8 of 2021 also allows narcotics offences to be handled through restorative justice subject to specific requirements, including that the offender is a person with an addiction or a victim of narcotics abuse, is not involved in an illicit narcotics trafficking network, and has undergone an integrated assessment. Nevertheless, police discretion is not unlimited and does not, by itself, eliminate criminal liability or determine the need for rehabilitation.

The integrated assessment mechanism also plays an important role in determining the appropriate treatment of children who abuse narcotics. The Integrated

Assessment Team, consisting of medical and legal teams, analyzes the level of dependence, medical and psychosocial conditions, history of narcotics use, and whether or not the child is involved in an illicit narcotics trafficking network. The assessment results serve as recommendations for investigators, public prosecutors, and judges in determining whether the child should be placed in a rehabilitation institution, while also distinguishing the child from narcotics traffickers. However, the integrated assessment mechanism is primarily intended for narcotics addicts and victims of narcotics abuse who have already acquired the status of suspects or defendants. Such recommendations do not automatically terminate the investigation or prosecution, as further decisions remain within the authority of law enforcement officials.

Taken as a whole, the legal problem is not the complete absence of non-punitive mechanisms, but rather the limitations, fragmentation, and uncertainty of access to such mechanisms. Diversion is constrained by the applicable sentencing thresholds and the construction of charges; restorative justice depends on particular procedures and requirements; discretion cannot be exercised arbitrarily to terminate a case; and integrated assessments merely produce recommendations whose implementation remains dependent on decisions made by law enforcement officials. These limitations become even more apparent when considered in relation to the regulation of rehabilitation under the Narcotics Law, particularly because access to rehabilitation is determined by the legal category assigned to the child.

The obligation for the rehabilitation of child narcotics abusers is briefly contained in Article 54 of the Narcotics Law, which states: "... and victims of narcotics abuse are required to undergo medical rehabilitation and social rehabilitation." In Indonesian law, (Eva Achjani Zulfa, 2024) the provisions on children as drug abusers

are not placed under the rehabilitation obligation provisions as mentioned in Article 54 of the Narcotics Law. Clearly, drug abuse refers to individuals who use narcotics without rights or unlawfully. Meanwhile, victims of narcotics abuse are individuals who unintentionally use narcotics because they were persuaded, deceived, tricked, forced, and/or threatened into using narcotics. Furthermore, the definition and qualification of the subject of narcotics abusers remain ambiguous, which can lead to differing actions by law enforcement officers.

The provision requiring rehabilitation for children who misuse narcotics does not expand the meaning of protection and survival for a child (Triana Ohoiwutun, Y. A., dan Samsudi, 2017). This is because the application of rehabilitation is still based on the criminal justice system process, where the judge is the key decision-maker in determining a child's guilt in narcotics misuse. This aligns with the high regard for the objectives of Indonesia's juvenile criminal justice system, which prioritizes the protection of children's interests (Bennett, W. M & McDonald, L.). This is supported by Article 127, paragraph (3) of the Narcotics Law, which states: "In the event that an Abuser can be proven or is proven to be a victim of narcotics abuse, the Abuser is required to undergo medical and social rehabilitation." Clearly, this provision indicates that a child who misuses narcotics is not approached through rehabilitation, and rehabilitation is still viewed as part of sentencing, rather than as recovery.

Then, in its development, the regulations for the rehabilitation of children who misuse narcotics have advanced significantly. This can be observed and compared with the regulations in various countries, such as Portugal, Australia, and France. These three countries are fighting against narcotics crimes and focus on rehabilitation rather than criminalization. This is different from the rehabilitation regulations in Indonesia,

which prioritize criminalization and do not consider several provisions related to child protection and the juvenile criminal justice system. Some comparisons of such policies will be outlined in the following table:

Tabel. I: Comparison of Mechanisms for Addressing Narcotics Abuse

Jurisdiction	Legal Basis	Competent Institutions	Legal Status of Use and Rehabilitation	Requirements and Procedures for Implementation
Indonesia	Juvenile Criminal Justice System Law; Narcotics Law	Investigators, public prosecutors, judges, correctional probation offices, social workers, the National Narcotics Board (BNN), and the Integrated Assessment Team.	Unauthorized use of narcotics remains a criminal offence. Rehabilitation may constitute the outcome of diversion, a non-custodial measure, or a judicial decision, but it has not yet become an automatic recovery mechanism fully separated from criminal proceedings.	Rehabilitation depends on the child's legal classification, assessment results, the construction of the charges, and decisions made by law enforcement authorities.
Portugal	<i>Law No. 30/2000</i>	The police confiscate the narcotics and refer the case to the Commission for the Dissuasion of Drug Addiction, an administrative body composed of legal, health, and social professionals.	Use and possession of narcotics in quantities intended for personal consumption remain unlawful but are classified as administrative offences rather than criminal offences. Treatment is voluntary and	It must be established that the narcotics were intended for personal use and were unrelated to trafficking. The Commission assesses the nature of use, dependency, social

			may provide a basis for the suspension or termination of administrative proceedings.	circumstances, and willingness to undergo treatment before issuing a warning, suspending proceedings, or imposing administrative sanctions.
Australia/ Queensland	<i>Youth Justice Act 1992 (Qld)</i>	Police may divert a child at an early stage, while the children's court or a drug diversion court may refer an eligible child for drug assessment and education.	Drug offences remain criminal offences. Assessment and education programs function as procedural diversion or pre-sentencing measures rather than as a form of decriminalization.	The child must qualify as an eligible child, and the conduct must constitute an eligible drug offence. The child must also consent to and complete the assessment and education sessions. Where the program is completed through police diversion, the matter may be finalized without further proceedings.
France	Articles L3423-1 and L3413-1–L3413-4 of the Code de la santé publique; Code de la justice	The public prosecutor orders therapeutic measures, while the regional health authority appoints a coordinating physician or other professional to conduct medical and	Unlawful use of narcotics remains a criminal offence. However, prosecution may not proceed where the person concerned complies with and	Implementation depends on the prosecutor's decision, the results of medical or psychosocial examinations, treatment

	pénale des mineurs	psychosocial examinations. In juvenile cases, judicial youth protection services and juvenile judges also exercise supervisory functions.	completes the prescribed treatment or medical supervision.	needs, and compliance with the program. The measure may continue for six months and may be renewed up to three times.
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Source: Compiled by the authors based on the laws and regulations of each jurisdiction.

The table above demonstrates that the four jurisdictions do not exhibit complete institutional or procedural equivalence. Portugal removes narcotics use for personal purposes from the criminal sphere and places it within an administrative framework. Queensland retains criminalization but provides a specific diversion program for children. France continues to classify narcotics use as a criminal offence but authorizes prosecutors to refrain from prosecution where the prescribed therapeutic program has been completed. Indonesia, meanwhile, provides for diversion, restorative justice, integrated assessment, and rehabilitation. Still, their implementation remains dispersed across several legal instruments and dependent on decisions made by authorities at each stage of the criminal justice process.

This comparison is not intended to suggest that any one of these systems can be directly transplanted into Indonesia. The legal subjects, institutional structures, and legal consequences differ across jurisdictions. One element that may be considered from Portugal is the clear distinction between personal use and illicit trafficking, together with the use of a multidisciplinary body. From Queensland, Indonesia may draw upon a child-specific diversion mechanism combined with assessment and education. From France, consideration may be given to the structured relationship

between prosecutorial authority, examination by health professionals, and the discontinuation of prosecution following completion of a therapeutic program. These elements must, however, be adapted to the principles of the best interests of the child, diversion, and judicial oversight within the Indonesian legal system.

Based on the provisions in the table above, each country demonstrates variability in their legal and social approaches toward children who misuse narcotics, emphasizing the importance of rehabilitation and treatment rather than merely imposing punishment. This approach reflects a recognition of the complexity of narcotic abuse issues and the need for integrating legal policies with social and health interventions. This is markedly different from Indonesia, which still places the rehabilitation of narcotic abusers within the framework of criminal punishment rather than recovery.

In examining the placement of rehabilitation as a form of recovery for children who misuse narcotics, it can be understood as a form of policy or effort to combat crime (criminal policy), which essentially forms an integral part of social defense and efforts to achieve social welfare. Therefore, it can be said that the main goal of criminal policy is the protection of society to achieve social welfare. Criminal policy, or crime prevention policy, when viewed in its scope, is very broad and highly complex. This is because, fundamentally, crime is both a human problem and a social issue that requires its own understanding. Crime as a social issue is a dynamic phenomenon, always growing and related to the symptoms of other complex social structures, which are socio-political problems (Muladi, 1995).

Thus, understanding the relationship between the development of crime and the evolution of societal structures, including family and state (Jiang, X, 2014), with all

their social, economic, political, and cultural aspects, is critically important for crime prevention efforts. This includes addressing narcotic-related crimes and the schematic relationship between social policy and criminal policy. Crime prevention efforts can be pursued through a criminal policy approach, meaning (Barda Nawawi Arief, 1994):

1. There is an integration between criminal policy and social policy.
2. There is an integration between crime prevention efforts through “penal” (punitive) and “non-penal” (non-punitive) measures.

Such explanations can clarify that the integration between criminal policy and social policy indicates a holistic approach to crime management. Criminal policy, which generally focuses on regulations, law enforcement, and sanctions, must align with social policy, which includes prevention aspects through improved welfare, education, and other social programs. This approach is important because it not only addresses offenders after a crime occurs but also minimizes the factors that drive criminal behavior by improving social and economic conditions. Furthermore, the integration of crime prevention efforts through penal and non-penal means reflects the need to use punitive measures (such as imprisonment or fines) as well as non-punitive measures, including rehabilitation programs, mediation, and community interventions. This illustrates the understanding that solving crime problems cannot solely rely on punishment but must also consider offender rehabilitation and the prevention of future crimes through social interventions.

This integration highlights the importance of synergy between various sectors and approaches within the criminal justice system. The aim is not only to address crime but also to prevent it more effectively and humanely, prioritizing social justice aspects

that emphasize the restoration of social relationships and the rehabilitation of offenders (Kusno Adi, 2009):

1. What actions should be considered criminal offenses?
2. What sanctions should be applied to offenders?

Analysis of these two central issues cannot be separated from the integral conception of criminal policy and social policy or national development policy. Thus, criminal law policy must also be carried out with a policy-oriented approach. Of course, this integral policy approach is not only in the field of criminal law but also in legal development in general (Kusno Adi, 2009). Likewise, efforts to tackle drug abuse by children can also be carried out through both channels. However, in reality, the penal route is more often used (Henggeler, S. W., 2012). Therefore, it is necessary to study more deeply the implementation of the penal route or the comprehensive use of criminal law so that the objectives can be achieved as expected, especially in protecting children for their future welfare (Kusno Adi, 2009).

Therefore, there are several forms of criminal policies regarding rehabilitation as a form of recovery and not as a form of punishment for child narcotics abusers, which are summarized in the following table points:

Table II. Rehabilitation Policy for Children Who Abuse Narcotics

ASPECT	Current Legal Basis	Proposed Model
Basis of Rehabilitation	Article 54 of Law Number 35 of 2009 on Narcotics.	Specific regulation on the rehabilitation of children who abuse narcotics based on the principles of the best interests of the child, justice, and utility.
Rehabilitation Mechanism	Articles 7, 10, and 11 of Law Number 11 of 2012 on the Juvenile Criminal Justice	Diversion is reinforced by a depenalization

	System, as well as Articles 103 and 127 of Law Number 35 of 2009 on Narcotics.	approach so that imprisonment is no longer imposed, with children being diverted to rehabilitation institutions from the earliest stage based on assessment results, without requiring the imposition of criminal punishment.
Legal Position of Rehabilitation	Article 82 paragraph (1) letter d of Law Number 11 of 2012, as well as Article 127 paragraphs (2) and (3) of Law Number 35 of 2009.	Rehabilitation is positioned as a recovery mechanism independent of criminal punishment while continuing to guarantee procedural safeguards for children.
Rehabilitation Based on the Integrated Assessment Team	The rehabilitation recommendation issued by the Integrated Assessment Team is non-binding, thereby leaving open the possibility that a child who abuses narcotics may still be subjected to criminal punishment. Its regulation is also contained only in a Joint Regulation among law enforcement and related authorities, namely the Joint Regulation of the Chief Justice of the Supreme Court of the Republic of Indonesia, the Minister of Health of the Republic of Indonesia, the Attorney General of the Republic of Indonesia, the Indonesian National Police, and the Head of the National Narcotics Board: Number 01/PB/MA/III/2014; Number 03 of 2014; Number PER-005/A/JA/03/2014; Number 1 of 2014; and Number PERBER/01/III/2014/BNN on	The determination of rehabilitation by the Integrated Assessment Team should constitute a final and binding decision so that the assessment results bind all law enforcement authorities, and its legal basis should be regulated at the statutory level.

		the Treatment of Narcotics Addicts and Victims of Narcotics Abuse in Rehabilitation Institutions.	
Relationship with Judicial Authority	Articles 103 and 127 paragraph (2) of Law Number 35 of 2009 on Narcotics.	Judges authorize the diversion to rehabilitation, examine objections to assessment results, and ensure the fulfillment of children's rights without treating rehabilitation as a form of criminal punishment.	

Source: Compiled by the authors based on the relevant laws and regulations.

Several provisions recommended as policies for the rehabilitation of juvenile drug abusers are essentially placed under criminal penalties. This means the policies still do not fully protect the rights of children facing legal issues. By placing rehabilitation as a form of recovery rather than punishment, it will prevent children from entering the criminal justice process. Additionally, the proposed changes aim to create a rehabilitation system for juvenile drug abusers that is more focused on recovery and justice, reduces the use of criminal penalties, and enhances the effectiveness of inter-agency coordination.

Policies that favor rehabilitation over punishment will have positive effects, such as reducing the overcapacity of correctional facilities due to drug-related inmates (Alexander Castleton & Alejandro Cid). A rehabilitation approach centered on the moral rights of inmates can result in effective rehabilitation and expedite their reintegration into society (Astrid Birgden A, & Luke Grant, 2010). This approach is supported by educational programs, vocational training, and social and psychological counseling to

aid the rehabilitation process (C. Cilliers, J. Smit, 2012), thereby reducing societal discrimination against former inmates (Tewksbury, R., 2012). On the other hand, the government needs to prepare for the impact of these pro-rehabilitation policies by enhancing both the quality and quantity of rehabilitation centers. Quality enhancement involves improving human resources, management, standardization, and supervision of rehabilitation centers. Increasing quantity involves expanding the number of rehabilitation centers and improving their facilities and infrastructure.

Furthermore, granting binding force to the recommendations of the Integrated Assessment Team cannot be based solely on joint regulations or regulations issued by the heads of institutions. Such a change must have a statutory basis because it directly affects the continuation of investigations, prosecutions, and the protection of children's rights. Under the proposed model, the binding effect should be limited to clinical determinations concerning the level of dependence, treatment needs, and the appropriate form of rehabilitation. The Team should not have the authority to determine whether a child is guilty or not guilty, as such authority must remain within the judicial system.

The legal team's conclusion as to whether there are indications of involvement in illicit narcotics trafficking should likewise not be treated as a final criminal determination. Rather, it should serve as an administrative basis for investigators or public prosecutors to implement diversion. Where there is an objection, a difference of opinion, or new evidence concerning the child's involvement in illicit trafficking, the matter should be capable of being submitted to a juvenile judge through an expedited review procedure. Under this framework, the binding nature of the recommendation does not eliminate judicial oversight, but prevents law enforcement

authorities from disregarding medical and psychosocial assessment results without lawful justification.

Institutional accountability should be ensured through competency standards for team members, documentation of all stages of the assessment process, an obligation to provide written reasons, conflict-of-interest prohibitions, confidentiality safeguards, and periodic audits. The child should also be entitled to assistance from a parent or guardian, legal counsel, and a probation officer, as well as the right to request a second assessment by a different team. The assessment results and rehabilitation plan should subsequently be submitted to a juvenile judge for judicial authorization. Such authorization would function as a safeguard to ensure the legality of the diversion and the fulfillment of the child's rights, rather than as a criminal sentencing decision.

It should be clarified that drug abuse is a type of crime with the potential for very wide and complex social impacts, especially when committed by children. The social impact of drug abuse by children is not only due to the long-term physical and mental suffering it causes but also due to the complexity of addressing the issue, particularly when criminal law is used as the means of intervention (Kusno Adi, 2009). Drug abuse can be understood as a pathological pattern of narcotics use that results in social functioning impairments (Kusno Adi, 2009).

C. CONCLUSION

The Indonesian legal framework has provided for diversion, integrated assessment, and rehabilitation for children who abuse narcotics; however, their implementation remains fragmented, dependent on criminal proceedings, and has yet to provide legal certainty regarding access to rehabilitation. The findings of this study

indicate that rehabilitation should be positioned as a recovery mechanism independent of criminal punishment for children who use narcotics for personal use and are not involved in illicit trafficking. Therefore, harmonization between the Narcotics Law and the Juvenile Criminal Justice System Law is required by clarifying the legal status of children who abuse narcotics, strengthening multidisciplinary assessment from the earliest stage, and granting binding force to assessment outcomes while maintaining judicial oversight to ensure the protection of children's rights.

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