

Implementation Challenge Analysis Restorative Justice for Child Narcotics Offenders in Merauke in a Review Lawrence M. Friedman's Legal System Theory

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ABSTRACT

This study aims to identify and analyze the challenges of implementing restorative justice for child drug offenders in Merauke using Lawrence M. Friedman's legal system theory. This type of research is empirical legal research. The results of the study indicate that the implementation of Restorative Justice (diversion) for child drug offenders at the Merauke Police Station is low, where data shows that 92.8 % of cases from 2021-2023 continued to formal justice. Based on Lawrence M. Friedman's Legal System Theory, three main obstacles were found: (1) Legal Substance, namely the normative conflict between the Narcotics Law and the Juvenile Criminal Justice System Law where the imposition of articles with a criminal threat of more than seven years automatically invalidates the diversion requirement; (2) Legal Structure, in the form of the absence of the National Narcotics Agency (BNN) at the Regency level and the absence of adequate special rehabilitation facilities for children in Merauke; and (3) Legal Culture, characterized by the strong negative stigma in society that labels children as dealers, thus hindering the process of social reintegration. The lack of synchronization between these three pillars makes it difficult to realize the principle of *ultimum remedium* in handling children who come into conflict with narcotics law.

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1. INTRODUCTION

It is known that in this era of globalization, many *modus operandi* are still found in committing crimes, particularly in drug trafficking, which often targets minors. Narcotics crimes are regulated by the Narcotics Law.¹

The drug problem in Indonesia has become a serious threat to social resilience and the future of the nation's generations, making it an *extraordinary crime* that requires

¹Putu Krisna Widya Sujana, et,a "Legal Protection for Children Who Commit Narcotics Abuse Crimes", *Journal of Legal Analogy*, Volume 4 Number 2, 2022, p. 5.

extraordinary handling by law enforcement officials and all elements of society. Even more worrying, drug distribution and abuse have now spread massively to minors.²

According to M. Nasir Djamil, children are the next generation. The good and bad of the nation's future depends on the good and bad conditions of children today.³ Protecting children's rights is part of protecting human rights. Children's rights encompass all rights related to the fact that children are creatures of God Almighty and must be respected, upheld, and protected by the state, law, government, and every individual for the sake of honoring and protecting human dignity.⁴

Based on national statistics, children are not only victims of abuse, but are also often trapped into becoming couriers or even dealers by narcotics networks, distancing them from the principles of protection mandated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (SPPA). Because children are the hope of the nation and state who have a strategic role, guaranteeing the continued existence of the nation and state in the future, children need to be given the widest possible opportunity to grow and develop optimally, both physically, mentally and socially.⁵

Drug crimes pose a serious threat, even involving minors as targets. The Child Protection Act (SPPA) emphasizes the importance of diversion and a restorative approach as a last resort (*ultimum remedium*) in resolving juvenile cases, shifting the paradigm from retributive to rehabilitative.

Narcotics are substances that have certain effects on the user, such as anesthesia, pain relief, increased enthusiasm, hallucinations, or the appearance of delusions. In the medical field, drugs are used for treatment such as in surgery, to relieve pain.⁶

Based on Law No. 35 of 2009 concerning Narcotics, it is regulated that narcotics may only be used for health and scientific purposes, these properties are intended for use in the medical field, such as in surgery and pain relief.⁷

The Merauke Resort Police (Polres) plays a central role as the initial *gatekeeper* in the juvenile criminal justice system (SPPA). has a strategic role in tackling this crime, both through prevention and enforcement.

According to data from the Merauke Police, there were five drug crimes involving children in 2021 and 2022, respectively, while there were four cases in 2023. This data indicates that drug crimes involving children have continued to occur over the past three years.

As perpetrators, child drug offenders are often prosecuted through criminal justice mechanisms, particularly if they are suspected of unlawful acts such as possessing, distributing, or using narcotics without authorization. However, this regulation is inseparable from the principles of the Child Protection and Child Protection Law, which

²Putu Krisna Widya Sujana, et al, "Legal Protection for Children Who Commit Narcotics Abuse Crimes", *Journal of Legal Analogy*, Volume 4 Number 2, 2022.

³M. Nasir Djamil, "Children Are Not to be Punished", (Jakarta: Sinar Grafika), 2013. p. 11.

⁴Article 1 number 1 of the Republic of Indonesia Law Number 39 of 1999 concerning Human Rights

⁵ Salvadoris Pieter, Gusti Ayu Utami, "Children as Perpetrators of Criminal Acts Against Morality from a Criminological Perspective", *Bacarita Law Journal*, Volume 5, Number 1, 2024, Page 144.

⁶Andrew Simon Petrus Siburian, et al., "The Role of the Police in Overcoming Drug Abuse by Minors (A Study at the Simalungun Police Resort)", *PATIK: Journal of Law*, Volume 10 Number 1, 2021. Page 18.

⁷Muhammad Fachrur Razy Mahka, "Online Narcotics Buying and Selling Transactions: Implementation and Formulation." *Journal of Sharia and Law*, Vol. 4 Number 1, 2023, p. 39.

prioritizes restorative justice and diversion approaches in handling children in conflict with the law. Therefore, even though children can be qualified as perpetrators of criminal acts, the approach to sentencing them must be carried out carefully and prioritize the best interests of the child.⁸

However, the implementation of the restorative approach mandated by the UUSPPA, especially by the Merauke Police, faces various structural, legal and sociological obstacles.

2. METHOD

This research is an empirical juridical study, examining the legal realities that exist in society. Data analysis in this study was conducted using a descriptive-qualitative method, depicting the real situation related to the challenges faced by the Merauke Police in implementing a restorative approach for juvenile drug offenders. The results of interviews, documentation, and literature studies were processed and analyzed qualitatively to produce descriptive data. This research was conducted at the Merauke Police Resort.

3. RESULTS AND DISCUSSION

The Convention on the Rights of the Child, Law No. 23 of 2002 concerning Child Protection, and Law No. 11 of 2012 concerning the Juvenile Criminal Justice System serve as legal foundations that emphasize the importance of a more humane approach. In this context, the concept of restorative justice becomes highly relevant, particularly in handling cases involving children involved in drug abuse.⁹

Restorative justice is an approach focused on recovery, not solely on retribution or punishment. In cases of child drug abuse, restorative justice can be implemented through various measures, such as penal mediation, diversion, rehabilitation, and involving families and communities in the recovery process.¹⁰

The Merauke Resort Police play a crucial role in prevention and enforcement efforts. Prevention strategies include outreach in schools and communities, as well as collaboration with educational institutions and community organizations to raise awareness of the dangers of drugs. Police also conduct routine patrols and enforcement operations to prevent drug distribution in vulnerable areas. In terms of enforcement, the Merauke police apply a firm approach but focus on saving children from the trap of drugs.

This can be seen from the Merauke Police case data, which in the last three years, there were 14 (fourteen) cases of narcotics abuse, consisting of 5 (five) cases in 2021, 5 (five) cases in 2022, and 4 (four) cases in 2023. These cases violate Article 114 Paragraph (1) and Article 111 Paragraph (1) of the Republic of Indonesia Law Number 35 of 2009

⁸Rizky Ade Agustin, Andika Wijaya, Satriya Nugraha, "Legal Study on Drug Abuse by Minors in the Juvenile Criminal Justice System." *INNOVATIVE: Journal of Social Science Research*, Volume 5, Number 3, 2025, p. 2426.

⁹Balqis Dewi Rahayu, Lindi Kartika Dewi, Stephanus Louis Scaeva Tapiheru, Muhammad Fardan Valenko, "Restorative Justice in Cases of Illegal Drug Abuse by Minors", *Al-Zayn: Journal of Social Sciences & Law*, Volume 3, Number 2, 2025. Page 126.

¹⁰*Ibid* ..

concerning Narcotics, which includes possession, storage, and control of narcotics in the form of marijuana without rights.

Table 3.1 . Data Case Drug Abuse by Children in Merauke Regency 2021-2023.

Year	Types of Narcotics Cases Used		Number of Cases
	Crystal meth	Marijuana	
2021	-	5 Cases	5 Cases
2022	-	5 Cases	5 Cases
2023	-	4 Cases	4 Cases
NUMBER OF CASES			14 Cases

Data Source: Obtained from primary data from Merauke Police

There were a total of 14 drug crime cases involving minors. These cases were consistently distributed, with five cases in 2021, five in 2022, and four in 2023. This demonstrates that the problem of child involvement in drug crimes is a persistent challenge that has not been fully resolved through existing mitigation efforts.

Substantively, all cases recorded during this period involved the narcotic type marijuana. The decline in the number of cases involving minors in 2023 is a positive development, although drug abuse remains a serious concern.

Even though the dominant case is marijuana, the charge under Article 114 Paragraph (1) indicates that the child is suspected of acting as a dealer or being involved in a syndicate network. This is an operational and substantial challenge for the Merauke Police, especially in handling children who are seen as part of organized crime, making restorative *justice approaches* such as diversion difficult to implement.

Article 111 and Article 114 of the Narcotics Law carry a prison sentence of more than seven years. Legally, the threat of this high sentence automatically negates the formal requirement for diversion as mandated by the Juvenile Criminal Justice System Law (UU SPPA). Thus, the data on these 14 (fourteen) marijuana cases reflects one of the challenges faced by the Merauke Police, namely the limited legal substance required to implement *the Ultimum Remedium* of the UU SPPA at the investigation stage, as the articles imposed do not meet the threshold for diversion, making restorative *justice approaches* such as diversion difficult to implement.

Efforts to handle children carried out by the Merauke Police can be seen in the following table:

Table 3.2 . Handling Recapitulation Data Case Drug Abuse by Children in Merauke Regency 2021-2023.

Year	Police Report Number	Suspect Identity	Articles Violated	Evidence	Note
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2021	1	LP/A/254/VI/2021 /Papua/Res Mrk, June 7, 2021 regarding misuse Narcotics	Initials ZP, a student	Article 111 paragraph (1) Law Number 35 years 2009 About narcotics	- 6 (Six) Packs of Marijuana Narcotics. - 1 (One) pack of newspaper containing Types of Narcotics Marijuana.	Phase II
	2	LP/A/337/VII/2021/spkt.satnarkoba/ Merauke Police/Papua Police, July 29, 2021	Initials GM, A High School Student	Article 111 paragraph (1) Law Number 35 years 2009 About narcotics	- 3 (three) paper packages containing narcotics in the form of marijuana - 1 (one) pack of Surya cigarettes containing 12 marijuana cigarettes	Phase II
	3	LP/A/598/XII/2021/spkt.satnarkoba/ Merauke Police/Papua Regional Police, December 12, 2021	Initial R, A junior high school graduate	Article 111 paragraph (1) Law Number 35 years 2009 About narcotics	- 12 packages of narcotics types of marijuana - 1 (one) unit of mobile phone containing conversations about purchasing types of narcotics marijuana	Phase II
	4	LP/A/600/XII/2021/spkt.satnarkoba/ Merauke Police/Papua Regional Police, December 12, 2021	Initials RH, A high school graduate	Article 111 paragraph (1) Law Number 35 years 2009 About narcotics	1 unit bag small plastic bag containing marijuana-type narcotics	Phase II
	5	LP/A/600/XII/2021/spkt.satnarkoba/ Merauke Police/Papua Regional Police, December 12, 2021	Initials MH, A junior high school graduate	Article 111 paragraph (1) Law Number 35 years 2009 About narcotics	1 unit bag small plastic bag containing marijuana-type narcotics	Phase II
2022	1	LP / A / 96 / II / 2022/spkt. satnarkoba / Merauke Police / Papua Regional Police, February 7, 2022	Initials YA, A junior high school student	Article 114 paragraph (1) second Article 111 paragraph (1) Law Number 35 of 2009	1 (One) pack Troy cigarette butts containing marijuana as many as 1 package currently	P-21

				concerning narcotics		
	2	LP / A / 105 / II / 2022/spkt. satnarkoba / Merauke Police / Papua Regional Police, February 8, 2022	Initials YS, A student	Article 114 paragraph (1) second Article 111 paragraph (1) Law Number 35 of 2009 concerning narcotics	-1 (one) cell phone contains photos of the results taking selfies alone with marijuana . - 7 (seven) packs small in size types of narcotics marijuana .	Phase II
	3	LP / A / 317 / V / 2022/spkt. satnarkoba / Merauke Police / Papua Regional Police, May 5, 2022	Initials KA, A student	Article 114 paragraph (1) second Article 111 paragraph (1) Law Number 35 of 2009 concerning narcotics	1 (one) pack1 (one pack cigarette paper rolled up and contains 5 packages types of narcotics marijuana	Phase II
	4	LP / A / 317 / V / 2022/spkt. satnarkoba / Merauke Police / Papua Regional Police, May 5, 2022	Initials LA, A student	Article 114 paragraph (1) second Article 111 paragraph (1) Law Number 35 of 2009 concerning narcotics	1 (one) pack1 (one pack cigarette paper rolled up and contains 5 packages types of narcotics marijuana	Phase II
	5	LP / A / 317 / VI / 2022/spkt. satnarkoba / Merauke Police / Papua Regional Police, June 13, 2022	Initials MR, A student	Article 127 paragraph (1) of Law Number 35 of 2009 concerning narcotics	-1 (one) package plastic white narcotics types of marijuana - 1 (one) package in progress white paper that contains marijuana-type narcotics	RJ
2023	1	LP / A / 05 / II / 2023 / spkt. satnarkoba / Merauke Police / Papua Regional Police, February 1st 2023	Initial A, A vocational school student (did not graduate)	Article 114 paragraph (1) or Article 111 paragraph (1) of Law Number 35 of 2009 concerning narcotics	-1 (One) blade tramontika gate - 7 (seven) pieces 11 clear plastic containing marijuana - 1 (one) peck/roll types of narcotics	Phase II

					marijuana that	
2	LP / A / 06 / II / 2023 / spkt. satnarkoba / Merauke Police / Papua Regional Police, February 7th 2023	Initial R, An elementary school graduate	Article 114 paragraph (1) or Article 111 paragraph (1) of Law Number 35 of 2009 concerning narcotics	- 5 (one) cell phones contains photos of the results taking selfies alone with marijuana - 7 (seven) packs small in size types of narcotics marijuana - 1 (one) piece marijuana plants planted in the bucket		P-21
3	LP / A / 07 / II / 2023 / Spkt. Satnarkoba / Merauke Police / Papua Regional Police, February 7th 2023	Initial S, A Student	Article 114 paragraph (1) or Article 111 paragraph (1) of Law Number 35 of 2009 concerning narcotics	-20 (twenty) suspected pack narcotic type marijuana that is placed in 11lastic medium size - 6 (six) packs suspected narcotics the type of marijuana that wrapped in paper book		Phase II
4	LP / A / 08 / III / 2023 / Spkt. Satnarkoba / Merauke Police / Papua Regional Police, March 26th 2023	Initials AW, An elementary school graduate	Article 114 paragraph (1), second Article 111 paragraph (1) of Law Number 35 of 2009 concerning narcotics	- 1 (one) pack1 clear plastic medium sized suspected types of narcotics marijuana - 125 packs suspected narcotics types of marijuana in wrap		Phase II

Data Source: Obtained from primary data from Merauke Police

The data in the table above illustrates that the implementation of restorative justice during the period 2021 to 2023 has become a serious challenge, covering a total of 14 (fourteen) narcotics crime cases involving minors, where all of these cases involved evidence of narcotics in the form of marijuana with varying amounts each year. This data also confirms the operational and legal substance challenges which show a tendency for law enforcement to charge these children with serious articles, namely Article 114 Paragraph (1) (Distributing) and Article 111 Paragraph (1) (Possessing/Storing) of the Narcotics Law, which have a maximum criminal penalty of up to 20 years. This entrapment has fatal consequences for the restorative approach

because it automatically invalidates the formal requirements of internal diversion, which strictly limits it to crimes with a prison sentence of less than seven years.

This conflict of legal substance is clearly reflected in the final results of handling cases from a total of 14 cases, as many as 13 cases (92.8%) were transferred to Phase II/P-21 or the formal court process, while only 1 case was successfully resolved through Restorative Justice (RJ), namely the case charged with Article 127 (Abuse), whose criminal threat meets the requirements for diversion.

This situation demonstrates that the Merauke Police Department faces serious challenges in implementing *the Ultimum Remedium principle*, which prioritizes criminal law as a last resort. This indirectly forces children into a retributive criminal process that should be avoided, and exacerbates the potential social stigma attached to children labeled as "distributors" rather than victims of a syndicate.

The substantive and operational failures recorded in the data indicate an urgent need to strengthen the implementation of a recovery-oriented approach.

The implementation of the restorative *justice approach* in the Juvenile Criminal Justice System (SPPA), in this case, is diversion, which is the embodiment of a paradigm shift from a retributive system that focuses on revenge and punishment, to a system that prioritizes recovery and social reintegration.

Restorative Justice is defined as a paradigm that fundamentally shifts the focus of resolving criminal cases from solely punishing the perpetrator (*retribution*) to repairing the harm caused by the crime (*repairing harm*). This approach essentially requires the active involvement of victims, perpetrators (children), and the community in seeking constructive solutions. The goal is to achieve recovery for victims and social reintegration for children, thereby ensuring a sustainable future for children.

The ideal child protection efforts mandated by the Child Protection Act (SPPA) need to be tested for their effectiveness. Therefore, a comprehensive analytical framework is needed to examine why the restorative approach, which should be prioritized, has experienced significant failure, particularly at the Merauke Police Resort.

3.1. Lawrence M. Friedman's Legal System Theory

To analyze the effectiveness of the Merauke Police's efforts, the author uses Lawrence M. Friedman's Legal System Theory framework, which divides the legal system into three interdependent components, namely Legal Substance, *Legal Structure*, and *Legal Culture*.¹¹

- 1) Legal substance in a legal system can be interpreted as the rules, norms, and real behavioral patterns of humans within the system. Substance is also interpreted as the products produced by people within the legal system, including the decisions they issue or will make, and the policies in force.¹²In this context, what is meant is Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA) which mandates Diversion, which then clashes with the rigidity of sanctions in Law Number 35 of 2009 concerning Narcotics (UU Narcotics).
- 2) According to Lawrence M. Friedman, legal structure is the permanent framework of a legal system that keeps processes within its boundaries. The elements of this legal structure include law enforcement institutions, including the Merauke Police, the

¹¹Askari Razak, "Realizing Fair and Dignified Elections: A Review of Lawrence M. Friedman's Legal System", *Fundamental: Scientific Journal of Law*, Volume 12, Number 2, 2023. P. 481.

¹²*Ibid*.

National Narcotics Agency (BNN), rehabilitation institutions, and educational and social institutions.¹³

- 3) Legal culture is the human attitude towards law and the legal system, encompassing beliefs, values, thoughts and expectations. Legal culture also encompasses the social atmosphere and social forces that determine how law is used, avoided or abused . This legal culture determines how law is used, avoided or even abused.

The effectiveness of restorative implementation depends on the harmonious interaction of these three components. If there is incongruity, for example, if the substance of the SPPA Law is faced with a weak structure and a legal culture that resists restoration, effective implementation will be impossible to achieve. The empirical data from Merauke Police in table 3.1 shows that one of the failures in implementing diversion is a reflection of the simultaneous dysfunction in Friedman's three pillars.

To identify the points of dysfunction within these three pillars, the first analysis will focus on Legal Substance , namely the norms governing the obligations of law enforcement. In this context, Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA) establishes a progressive Legal Substance framework for handling children in conflict with the law.

The Principle of Diversion and Ultimum Remedium

Law No. 11 of 2012 concerning the Juvenile Criminal Justice System (UU SPPA) establishes a progressive legal substance framework for handling ABH. This law explicitly requires the use of diversion as a formal procedure, as clearly stated in Article 5 of the UU SPPA, which explains that:

- 1) The Juvenile Criminal Justice System must prioritize a Restorative Justice approach.
- 2) The Juvenile Criminal Justice System as referred to in paragraph (1) includes:
 - a. investigation and prosecution of criminal cases against children are carried out in accordance with the provisions of laws and regulations, unless otherwise stipulated in this Law;
 - b. Child trials conducted by courts in the general judicial environment; and
 - c. guidance , mentoring, supervision and/or assistance during the process of carrying out criminal or criminal action and after serving the criminal or criminal action.
- 3) In the Juvenile Criminal Justice System as referred to in paragraph (2) letters a and b, diversion must be attempted.

In Indonesian criminal procedure law, the application of *restorative justice* is essentially a way to actualize the principle of fast, easy, and affordable justice. Consequently, not every case is brought to court, especially if it can be resolved in a manner that is more beneficial to each party. The shift in the criminal law paradigm from a retributive to a restorative approach is reflected in the investigation of narcotics cases that use a restorative justice approach. This shift demonstrates contemporary legal developments that emphasize substantive justice over formal justice.¹⁴

¹³ *Ibid* . Page 477.

¹⁴Dewa Ayu Kirana Putri, Dewa Gede Dana Sugama, "Optimizing Restorative Justice in Terminating Narcotics Crime Investigations: Perspective of Substantive Justice and the Effectiveness of Criminal Procedure Law", *Jurnal Media Akademik*, Volume 3, Number 10, 2025. p . 8.

The principle of *Ultimum Remedium* (criminal law as a last resort) is a key pillar of the Juvenile Justice System Law. In this context, the Merauke Police, as part of the legal structure, are required to prioritize diversion at every level of examination, from investigation and prosecution to court hearings. Diversion is the transfer of juvenile cases from the formal criminal justice process to a process outside the criminal justice system. This obligation serves as a corrective mechanism to the adult criminal justice system, which tends to be retributive.

The goal of child protection under the Child Protection and Child Protection Law is to protect children's rights and rehabilitate them, not to retaliate (retribution). In narcotics cases, enforcement efforts by the Merauke Police must be directed at rescuing and recovering children from the clutches of drugs. This aligns with the philosophy that a child's future should be prioritized over punishment. The emphasis on rehabilitation is crucial, given that drug abuse has multidimensional physical and psychological impacts, as well as social stigma, which must be addressed comprehensively.¹⁵

The Link Between Narcotics and Child Protection

Children involved in narcotics crimes are faced with a dual legal position as perpetrators who are criminally responsible (Narcotics Law) and as subjects who must be protected (SPPA Law and Child Protection Law). Handling of cases at the Merauke Police shows that children are being charged with serious articles in the Narcotics Law, namely Article 111 Paragraph (1) (possessing/storing) and/or Article 114 Paragraph (1) (distributing). These articles carry the threat of high penalties, which directly becomes the biggest obstacle to the implementation of diversion.

However, children involved in the illicit trafficking of narcotics are often victims of exploitation by syndicates, and not simply pure criminals. Therefore, national law adopts a rehabilitative approach, aiming to avoid overcriminalization of abuse victims and to reintegrate them into society productively. ¹⁶The Merauke Police, in their enforcement efforts, must balance firm law enforcement against syndicates with their obligation to provide protection and rehabilitation for the children involved.

However, the real challenge facing the Merauke Police lies in operational and substantive legal conflicts that directly undermine these balancing efforts. Empirical data from 2021 to 2023, presented in Table 3.1, demonstrates that the ideal of child protection is often hampered by the rigidity of the Narcotics Law.

3.2. Legal Substance Challenges

The main cause of the failure of Diversion, which reached 92.8% of cases, lies in the conflict of Legal Substance, namely the clash between the UUSPPA and the Narcotics Law.

¹⁵Jeanne Darc Noviyanti Manik, Abrillioga, Nur Intan Akuntari, "The Urgency of Implementing Rehabilitation for Drug Addicts and Victims of Drug Abuse by the National Narcotics Agency", *PROGRESIF: Journal of Law*, Volume 19, Number 1, 2022. p. 81.

¹⁶Intan Nur'aini, Anindya Intan Pandini, Herfita Ayu Nayla, Nanda Patmawati, "Criminal Law Policy for Combating Narcotics Abuse", *Amendment: Indonesian Journal of Land, Politics and Law*, Volume 2, Number 3, 2025. p. 76.

Article 7 Paragraph 2 of the SPPA Law stipulates a formal requirement that Diversion can only be implemented if the crime committed by the child is punishable by imprisonment of less than seven years and is not a repeat of the crime. The dominant articles imposed on children in Merauke, namely Article 111 Paragraph (1) and Article 114 Paragraph (1) of the Narcotics Law, have a prison sentence threat far above the seven-year limit, even in Article 114 the maximum penalty can reach 20 years.

This high criminal threat automatically invalidates the formal requirements for Diversion. Therefore, law enforcement, in this case the Merauke Police, is legally bound by the substance of the Narcotics Law. Charging with high-threat articles forces the legal process to enter Phase II, even if law enforcement philosophically wants to prioritize RJ.

The only case that was successfully diverted (Initials MR, 2022) was a case charged under Article 127 Paragraph (1) of the Narcotics Law (Abusers), which carries a maximum sentence of 4 years, thus meeting the seven-year threshold for Diversion. This phenomenon strengthens the argument that determining the Legal Substance or articles in the law is the main determining factor in the success or failure of RJ implementation in Merauke. If a child is caught under Article 114 which indicates distribution, the door to restoration is almost closed.

3.3. Structural And Institutional Challenges of the Merauke Police

Structural challenges reflect weaknesses in the Friedman Legal Structure component, where implementing institutions do not have adequate capacity or support to carry out the mandate of RJ and rehabilitation, which based on research results found several challenges faced.

a. The absence of the National Narcotics Agency (BNN)

One of the biggest structural obstacles facing the Merauke Police is the absence of the National Narcotics Agency (BNN) in the region. The BNN has a crucial role as coordinator of narcotics countermeasures programs which include prevention, enforcement, and, most importantly, the implementation of sustainable rehabilitation.

Merauke does not yet have a National Narcotics Agency (BNN), so it experiences difficulties in coordinating and implementing programs related to integrated drug eradication. Government Regulation Number 25 of 2011 concerning the Eradication of Narcotics states the importance of the existence of the BNN as a coordinator in efforts to eradicate narcotics in all regions.

The absence of the BNN hampers the coordination and implementation of integrated programs, in accordance with the national narcotics prevention policy. Structurally, this creates *mission creep* for the Merauke Police. Resort police (Polres), whose primary function is investigation and prosecution, are forced to shoulder the burden of overlapping tasks in coordinating prevention and rehabilitation, which require specialized expertise and resources. This burden weakens the Polres' capacity to provide holistic restorative outcomes, as rehabilitation is a complex, multidisciplinary process.

This structural weakness also hampers synergy between state institutions mandated to combat narcotics. Without the BNN as a central coordinator, prevention efforts

(socialization) and enforcement carried out by the Police will be less structured and integrated nationally.

In addition to the absence of the National Narcotics Agency (BNN), which results in suboptimal coordination and prevention functions, another structural legal weakness lies in the lack of vital support for the curative aspect of restorative justice, namely recovery facilities. In other words, another structural challenge that directly undermines the rehabilitative goals of RJ is the lack of adequate rehabilitation facilities specifically for children in Merauke.

b. Challenges of Special Rehabilitation Facilities and Infrastructure for Children

Another structural challenge that directly undermines RJ's rehabilitative goals is the lack of adequate rehabilitation facilities specifically for children in Merauke. This facility limitation includes the lack of rehabilitation centers that can meet children's specific needs, such as social support and psychological counseling.

Rehabilitation facilities serve as a vital component of the recovery (curative) process, which is at the heart of the restorative approach. When adequate rehabilitation facilities are unavailable, children who should receive recovery support are at high risk of returning to the drug cycle (*recidivism*).

This gap creates a contradiction between the Legal Substance (obligation to rehabilitate) and the reality of the Legal Structure (lack of facilities). This lack of structural support practically eliminates *viable restorative placement options*, so that law enforcement is pushed to use formal repressive channels (Phase II), because the Restorative Justice resolution option which ideally ends in rehabilitative placement cannot be realized.

c. Operational Challenges

Based on the results of the author's analysis, operational challenges arise from the conflict between the idealism of the SPPA Law (Legal Substance) and the criminal articles in the Narcotics Law, which have been empirically proven to hinder the implementation of Diversion by the Merauke Police (Legal Structure).

This conflict between ideal regulations and practice on the ground is exacerbated by complex operational factors, where children are often part of larger criminal networks.

1) The Influence of Syndicates and Case Complexity

The cases handled by the Merauke Police show high complexity due to the existence of drug syndicates that exploit children. Data shows that children in Merauke are involved in criminal acts that are subject to Article 114 paragraph (1) (Distributing) and Article 111 paragraph (1) (Possessing/Storing) of the Narcotics Law. The dominant type of narcotics confiscated was marijuana.

The involvement of children in trafficking networks, even though they may be victims of manipulation, makes handling cases more difficult. Law enforcers tend to apply articles with high penalties such as Article 114 of the Narcotics Law to eradicate networks, which automatically sacrifices children's rights to diversion. This creates a paradox where children are seen as perpetrators of organized crime, making restorative approaches increasingly difficult to implement.

The paradox and difficulties law enforcement faces in providing restorative treatment are clearly evident in case handling output data. A summary analysis of the handling of 14 cases involving child drug offenders by the Merauke Police between 2021 and 2023 clearly demonstrates the challenges of implementing diversion and restorative justice at the investigation level.

2) Obstacles to the Implementation of Diversion and RJ at the Investigation Level

Empirical data from the Merauke Police clearly shows significant failures in the implementation of Diversion, which is a key indicator of operational and substantial challenges. The recapitulation analysis of the handling of 14 cases of child drug offenders by the Merauke Police in the period 2021 to 2023 shows a massive failure ratio, based on the data in table 3.1 and table 3.2, the author analyzes the ratio of completion of narcotics cases at the Merauke Police from 2021-2023 as listed in the following table below:

Table 3.3 . Analysis of the Settlement Ratio of Child Narcotics Cases at the Merauke Police (2021-2023)

Criteria	Amount	Presentation
Total Cases of Child Narcotics from 2021 to 2023	14 Cases	100%
Case Successfully Resolved through Restorative Justice (RJ)	1 Case	7.2%
Case Transferred to Phase II/P-21 (Court Process)	13 Cases	92.8%

This data confirms that the majority of cases (13 out of 14, or 92.8%) ended at Phase II/P-21, meaning the formal legal process proceeded to court. Only one case (initialed MR in 2022) was successfully resolved through diversion or restorative justice.

The ratio data above indicates that the Merauke Police, as a legal entity, has not optimally implemented the *Ultimum Remedium principle* of the SPPA Law in handling narcotics ABH. This dominance of repressive channels indicates a fundamental obstacle hindering the implementation of restorative justice from the investigation stage.

In addition, the failure of child recovery is not only caused by normative and institutional factors, but is also deeply rooted in the social dimension and values of society which constitute the third pillar, namely Legal Culture.

3.4. Sociological challenges and Legal Culture

Based on the research results, it was also found that the challenges faced by children of drug offenders in Merauke are also Negative Social Stigma. Children tend to be viewed by society as pure criminals, without considering factors of vulnerability, syndicate exploitation, or environment.

This stigma triggers ostracism from the surrounding environment and even one's own family. The psychological impact on children's mental and emotional condition worsens, they lose self-confidence, feel humiliated, and hopeless. This situation complicates rehabilitation efforts because children must struggle with dependency while also facing systematic social exclusion. If stigma is not addressed, social reintegration, the ultimate

goal of restorative justice, will be impossible. will fail, and the risk of recidivism will increase sharply.

This phenomenon of profound social stigma is a manifestation of the failure of Friedman's legal culture component. Even if the legal substance (the Juvenile Justice and Child Protection Law) and structural efforts (the police) succeed in pursuing RJ, if society and the community (the legal culture) refuse to accept the children back and continue to sentence them, the goals of recovery and social reintegration will not be achieved.

As Friedman's theory suggests, without the support of a supportive legal culture, even an ideal restorative legal system will be powerless.¹⁷ Therefore, the challenge in Merauke lies not only with the authorities and regulations, but also with social values that have not fully internalized the concept of child protection above punishment.

Therefore, normatively, the social stigma experienced by these children is diametrically opposed to the guarantees provided by Law Number 23 of 2002 concerning Child Protection. The law guarantees children's right to be free from all forms of discrimination and stigma. Therefore, prevention efforts must be expanded to include interventions within the community's legal culture, through education and outreach aimed at changing the social perception of children from "perpetrators" to "victims in need of rescue," in order to create an environment conducive to their recovery and reintegration.

4. CONCLUSION

The implementation of the Restorative Justice (Diversion) approach to child perpetrators of narcotics crimes at the Merauke Police faces serious challenges that stem from the three components of the legal system, namely: *Substance* Obstacles are evident in the implementation of Diversion, where 13 of the 14 cases, or 92.8%, were transferred to Phase II due to fundamental normative issues. The tendency for the severe articles of the Narcotics Law (Article 114 and Article 111) that are applied to carry a criminal penalty of more than seven years, automatically invalidates the formal requirements for Diversion required by the SPPA Law. This invalidates the principle of *Ultimum Remedium* from the investigation stage. *Legal* structure challenges stem from institutional weaknesses that eliminate viable restorative options. These weaknesses include the absence of a National Narcotics Agency (BNN) in Merauke, which hinders coordination of integrated prevention and enforcement programs, and the lack of adequate rehabilitation facilities specifically for children in Merauke. This creates a contradiction between the obligation to rehabilitate (*Substance*) and the institutional reality (*Structure*), forcing investigators to refer cases to formal repressive channels. The challenge of legal culture *stems* from the negative stigma attached to children involved in drug use, who tend to be labeled "dealers" and ostracized. This demonstrates a failure in the legal culture component, fundamentally hindering the ultimate goal of restorative justice: social recovery and reintegration. Without a supportive legal culture, even ideal restorative justice efforts will be powerless.

¹⁷Askari Razak, "Realizing Fair and Dignified Elections: A Review of Lawrence M. Friedman's Legal System", *Fundamental: Scientific Journal of Law*, Volume 12, Number 2, 2023. P. 482.

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