

Islamic Legal Views on The Implementation of Diversion towards Children Involved in Narcotics Crimes

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Abstract

The abuse of narcotics involving children has become a very serious issue, as it affects their physical and mental development as well as their future. Within the juvenile criminal justice system in Indonesia, diversion is used as an effort to resolve cases outside the court through a restorative justice approach. This study aims to examine the perspective of Islamic law on the implementation of diversion for children involved in narcotics-related crimes. The research employs a normative juridical method with statutory and conceptual approaches. Data were obtained through literature study, including primary legal materials such as legislation, the Qur'an, and Hadith, as well as secondary legal materials such as books, scientific journals, and expert opinions. The novelty of this research lies in the analysis of the relationship between the concept of diversion in the juvenile criminal justice system and the principles of Islamic law, particularly the concepts of *maqashid al-sharia*, *islah*, and *musyawarah* in handling children involved in narcotics crimes. The results show that, from the perspective of Islamic law, children are regarded as a trust (*amanah*) that must be protected and nurtured. Diversion is understood as a form of resolution that aligns with the principles of *islah* and *musyawarah*, which emphasize peace, restoration of social relationships, and opportunities for children to improve themselves. In practice, the implementation of diversion involves law enforcement officers, families, communities, and social institutions through a deliberation process that results in agreements in the form of rehabilitation, guidance, and social reintegration of the child. The implementation of diversion for children involved in narcotics crimes is in line with the values of Islamic law, which emphasize protection, guidance, and rehabilitation of children in order to achieve restorative justice and a better future for them.

Keywords: *Diversion; Islamic Law; Narcotics*

INTRODUCTION

Drugs are basically a term widely known by the public as a substance or material that can have a bad impact, both physically and psychologically, if used incorrectly. (1) In the context of Islamic law, drugs are categorized as substances that intoxicate, damage the mind, and endanger health, so their use is prohibited because it can cause harm to individuals and society. Drug use among children is a serious concern, that social environmental factors and weak family supervision are the main triggers for children to get caught up in narcotics crimes. In addition, drug abuse behavior in adolescence is often closely related to the lack of religious education and social control in the family and surrounding environment. (1)

Diversion is an approach to resolving children's cases outside the criminal justice system, which aims to provide protection and recovery for children without negating the principle of justice. (2) From an Islamic legal perspective, diversion can be interpreted as an effort to resolve conflicts that depart from the values of deliberation, compassion, and recovery that prioritize the interests of children and society. That diversion is a reflection of restorative justice that prioritizes recovery for victims and perpetrators, and avoids stigmatization of children in conflict with the law. Furthermore, the implementation of restorative justice in diversion, according to Islamic law, must prioritize the principles of substantive justice, protection, and prevention of the recurrence of criminal acts through the social reintegration of children. That the application of diversion in the juvenile criminal justice system in Indonesia is in line with Islamic legal doctrine which is oriented towards improvement, development, and protection of the future of children. (3) This condition shows that handling children who are caught up in drug abuse is not enough to be done only through a repressive approach, but requires a more comprehensive approach and is oriented towards recovery.

The implementation of diversion from the perspective of Islamic law in Indonesia is an effort to place the settlement of children's cases within a framework of justice that is not only legalistic, but also oriented towards the values of humanity, protection, and education. (4) Diversion in this context is interpreted as a mechanism for terminating the juvenile justice process through peaceful means that prioritizes deliberation between the parties involved and aims to restore social relations, not just imposing sanctions. The implementation of diversion is very relevant considering the character of Islamic law which prioritizes the preventive and rehabilitative side in providing protection for children in order to prevent damage to the morals and future of the child. The form of implementation of Islamic legal diversion in Indonesia is

also closely related to the substance of the values of protection and compassion contained in the *maqashid al-syariah*, where the settlement of children's criminal cases is directed at fulfilling the common good and welfare. This concept has been accommodated in various national regulations that emphasize the importance of special treatment for children, such as Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Thus, the idea of implementing Islamic legal diversion in Indonesia is a concrete form of legal and social protection for children facing legal problems without ignoring the aspect of justice.(5)

The implementation of diversion according to Islamic law in Indonesia still faces various challenges in its implementation, both regarding the understanding of law enforcement officers, regulatory limitations, and socio-cultural aspects of society. This condition reflects the gap between the ideal norms expected in the concept of restorative justice based on Islamic values and the ongoing practice of law enforcement. In many cases, law enforcement officers do not yet have a comprehensive understanding of the principles of diversion from an Islamic legal perspective, such as deliberation (*shura*), *ishlah* (peace), and protection of the welfare of children. (6) As a result, the approach used still tends to be formalistic and oriented towards punishment, not towards recovery. Limited coordination between related institutions has an impact on the effectiveness of the implementation of diversion in the juvenile criminal justice system. That the juvenile criminal justice framework in Indonesia requires further harmonization so that Islamic legal values can be implemented comprehensively in the divergence of the juvenile case resolution process. By considering these various challenges, it can be concluded that the implementation of Islamic legal diversion in Indonesia requires strengthening in terms of regulations, increasing the capacity of officials, and socializing Islamic legal values so that the main goals of restorative justice and child protection can be optimally realized.

Thus, when linked to the effectiveness of the implementation of diversion according to Islamic law in Indonesia, some previous studies emphasize that the implementation of diversion needs to be reviewed so that it can be more in sync with the compilation of Islamic law and the social and legal needs of Indonesian society. (7) Then, the need for a stronger and more responsive normative basis for cases of children repeating criminal acts, while prioritizing the principle of child protection from the perspective of *maqashid al-syariah*. However, not a few studies highlight the limitations of the effectiveness of diversion in practice, whether due to regulatory factors, the capacity of the apparatus, or the less than optimal internalization of Islamic

legal values in the applicable diversion procedures. Based on the mapping of the literature facts, it can be stated that previous studies have not fully highlighted the aspect of effectiveness in depth specifically in the context of the implementation of diversion based on Islamic law for cases of children caught in narcotics crimes in Indonesia, so that this study has an urgency to fill the empirical and conceptual gaps that are still emerging. (8)

In this study, the researcher wants to examine 1). Islamic views on the diversion of children caught in narcotics crimes and 2). The application of diversion to children caught in narcotics crimes. This study is important because it can enrich the understanding of the relationship between the principle of child protection in the diversion mechanism with the values of justice and welfare in Islamic law. In addition, this study is expected to provide an overview of alternative solutions to children's cases that prioritize recovery, protection of children's rights, and reduce the negative impact of the criminal justice process. (9) The results of this study are also expected to add to the literature on diversion in Indonesia and become a consideration for law enforcement officers in handling cases of children in conflict with the law.

METHOD/IDEA

This research uses a normative juridical research method with a statutory approach and a conceptual approach. The statutory approach is carried out by examining various legal provisions related to diversion and the juvenile criminal justice system in narcotics cases, while the conceptual approach is used to examine the views of Islamic law regarding the handling of children in conflict with the law. (10) The data sources used are in the form of primary legal materials, such as Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, Law Number 35 of 2009 concerning Narcotics, Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, which emphasizes the principle of protection for children in conflict with the law, Supreme Court Regulation Number 4 of 2014 concerning Guidelines for the Implementation of Diversion in the Juvenile Criminal Justice System as well as relevant Qur'anic and hadith arguments, and secondary legal materials including books, scientific journals, research results, and expert opinions. Data collection is carried out through a literature study by reviewing various literature related to the research problem. Next, the legal materials obtained are analyzed qualitatively by systematically describing and interpreting the contents of the legal sources to obtain normative conclusions in accordance with the formulation of the research problem. (11)

RESULTS AND DISCUSSION

A. Islamic Perspectives on Diversion for Children Involved in Narcotics Crimes

1. The Position of Children from an Islamic Legal Perspective

According to the Shafi'i School of Islamic teachings, children are seen as a trust from God that must be protected and their rights fulfilled by parents and society. In the view of the Shafi'i School, children are individuals who do not yet have full legal responsibilities. This status ends when someone reaches puberty, which is marked by puberty in men, menstruation or pregnancy in women, and the growth of hair around the pubic area. If these signs have not appeared, then the age of puberty is set at 15 years according to the lunar calendar. Before reaching puberty, children are not yet burdened with full legal responsibilities so they need proper protection and education. (12) Before reaching puberty, children are not yet burdened with full legal responsibilities so they need proper education and education.

According to the Hanafi school of thought, a child is an individual who has not yet reached puberty and therefore still requires protection, guidance, and moral education. Children are seen as a trust from Allah who must be cared for and educated by the family, especially the parents, so that their rights are fulfilled. This protection encompasses physical, spiritual, and intellectual aspects with the aim of developing a good personality in accordance with Islamic values.(13)

In the Maliki school of thought, children are a trust from God that must be protected, educated, and morally nurtured by parents. Children do not have full legal responsibility until they reach the age of puberty, which is marked by puberty in males, menstruation or pregnancy in females, and the growth of hair around the pubic area. If these signs have not yet appeared, adulthood is determined at the age of 18. Before that, children remain under the protection and guidance of their parents.(14)

The differences in views between the schools of thought (Shafi'i, Hanafi, and Maliki) regarding the age limit for puberty do not essentially change the main principle that children are individuals whose legal and psychological capacities are not yet perfect (*ahliyyah al-ada'* is not yet perfect). Therefore, when children are involved in criminal acts, including narcotics, the approach used cannot be the same as for adults.(15)

According to Aceh Qanun Number 11 of 2008 concerning the Protection of Women and Children, a child is any person who is under 18 years of age, including those who

are still in the womb. Individuals who are 18 years of age or older are no longer categorized as children according to the qanun. Women and Children, a child is defined as an individual who is under 18 (eighteen) years of age, including fetuses who are still in the womb. This confirms that in the *qanun*, children are those who are under 18 years of age. Therefore, individuals who are 18 years of age or older are no longer categorized as children and are legally considered adults in terms of protection as regulated in the qanun.(16)

From an Islamic legal perspective, children are included in the category of *ghoiru mukallaf*, namely individuals who are not yet perfect in legal capacity (*ahliyyah al-ada'*). Therefore, children who are involved in criminal acts, including narcotics, cannot be positioned as fully responsible perpetrators, but must be seen as individuals who are still in the process of being developed. (17) This principle is in line with the word of Allah in QS. At-Tahrim verse 6.

يَا أَيُّهَا الَّذِينَ آمَنُوا قُوا أَنْفُسَكُمْ وَأَهْلِيكُمْ نَارًا وَقُودُهَا النَّاسُ وَالْحِجَارَةُ عَلَيْهَا مَلَائِكَةٌ غِلَظٌ شِدَادٌ لَا يَعْصُونَ اللَّهَ مَا أَمَرَهُمْ وَيَفْعَلُونَ مَا يُؤْمَرُونَ

“O believers! Protect yourselves and your families from a Fire whose fuel is people and stones, overseen by formidable and severe angels, who never disobey whatever Allah orders—always doing as commanded.”

This meaning implies that the responsibility to care for and nurture children is not only a social obligation, but also a spiritual one with eternal consequences. The command to "care for the family" includes educational efforts, moral development, and protection from all forms of behavior that could lead children into harm, including drug abuse.

Thus, when children are involved in drug crimes, the approach used must reflect the mandate of Surah At-Tahrim, verse 6, namely a collective effort to save children from moral and social damage. This aligns with the concept of diversion based on reconciliation and deliberation, which positions children not as criminals who must be punished repressively, but as individuals who need to be guided, guided, and restored.

The provisions in Aceh Qanun No. 11 of 2008, which set the age limit for children at 18, also reinforce the importance of legal protection for children as minors. This aligns with Islamic legal principles, which emphasize that children cannot be held fully

accountable until they reach puberty. Therefore, the primary responsibility rests with parents, families, and the community to ensure that children's rights are fulfilled.

Therefore, the integration of the values of the Qur'an, the views of the schools of thought, and the provisions of positive law shows that the protection and development of children is a shared responsibility that cannot be ignored. A humanistic, educational, and restorative approach is a real manifestation of God's command to protect families from destruction. Therefore, every effort to handle children caught in narcotics crimes must be directed at saving, improving, and shaping a better future for children, so that they can grow as a generation that is faithful, moral, and useful to society. (18)

2. The Concept of Islah and Deliberation as the Basis for Diversion in Islamic Law

The concept of islah and deliberation in the context of Islamic law in cases of children caught in narcotics crimes is a form of conflict resolution that prioritizes peace efforts, restorative justice, and reconciliation between the parties involved. (19) Based on the reality in the field, islah is not merely interpreted as an apology or formal peace, but rather is a series of awareness processes, providing opportunities, and empowerment for children so they can correct their mistakes while maintaining their dignity and honor. Deliberation, which is the main foundation in this diversion process, operates as a discussion forum that prioritizes the fulfillment of children's rights, upholds humanitarian values, and considers the best interests of children.

Deliberation, as the primary foundation of the diversion process, also holds crucial importance. In practice, deliberation serves not only as a formal discussion forum but also as a space for dialogue that prioritizes the fulfillment of children's rights, respect for human values, and consideration of the child's best interests. This principle is clearly based in Surah Asy-Shura, verse 38.

وَالَّذِينَ اسْتَجَابُوا لِرَبِّهِمْ وَأَقَامُوا الصَّلَاةَ وَأَمْرُهُمْ شُورَى بَيْنَهُمْ وَمِمَّا رَزَقْنَاهُمْ يُنفِقُونَ

“who respond to their Lord, establish prayer, conduct their affairs by mutual consultation, and donate from what We have provided for them”

The meaning of the above verse emphasizes that every matter should be decided through deliberation. Thus, the deliberation-based diversion mechanism reflects the implementation of Quranic values in the juvenile criminal justice system.

The existence of deliberation in the concept of *islah* is not only procedural, but also substantial. Deliberation is interpreted as a space for restoring social relations between children, families, victims, and the community. In this forum, all parties are given the opportunity to express their views, hopes, and the form of desired resolution. This process allows for the creation of an agreement that is not only legally fair, but also socially acceptable. (20) This is in line with Islamic teachings which encourage conflict resolution through peaceful means and forgiveness, as reflected in QS. Asy-Shura verse 40, namely:

وَجَزَاءُ سَيِّئَةٍ سَيِّئَةٌ مِّثْلُهَا فَمَنْ عَفَا وَأَصْلَحَ فَأَجْرُهُ عَلَى اللَّهِ إِنَّهُ لَا يُحِبُّ الظَّالِمِينَ

“The reward of an evil deed is its equivalent. But whoever pardons and seeks reconciliation, then their reward is with Allah. He certainly does not like the wrongdoers.”

This verse implies that Islam recognizes the principle of proportional justice (*al-jaza'min jins-al-alam*), yet at the same time strongly encourages forgiveness and good deeds as a form of higher moral virtue. Forgiveness in this verse does not mean eliminating justice, but rather directing it toward a more beneficial resolution, avoiding injustice, and opening up room for improvement for the perpetrator.

In the context of implementing diversion, this concept is highly relevant, given that children who commit drug crimes generally cannot escape environmental factors, weak family control, and social pressure. Therefore, diversion based on reconciliation and deliberation reflects the implementation of the values of forgiveness and improvement as recommended in the verse, by prioritizing a more humane solution. Through this approach, children are not only held accountable proportionally, but are also given the opportunity to improve themselves through guidance, rehabilitation, and social reintegration, so that the goal of justice is not only achieved formally, but also substantively and sustainably. (21)

Based on empirical reality, the implementation of reconciliation and deliberation has been proven to provide more comprehensive and sustainable solutions. The involvement of families, communities, and religious leaders in the deliberation process ensures that the resolution of the case goes beyond formal agreements and continues with

the development and supervision of the child. Psychosocial support provided during this process also strengthens the child's reintegration into their social environment.

Furthermore, the practice of deliberation in diversion also demonstrates a paradigm shift from a retributive justice approach to restorative justice. The resulting decisions are no longer oriented toward punishment, but rather toward rehabilitation, empowerment, and prevention of recurrence. This aligns with Islamic legal principles, which emphasize not only punishment (*zajr*) but also improvement (*islah*) and prevention (*wiqayah*).

From the perspective of the principles of Islamic law (*maqasid al-syariah*), the application of reconciliation and deliberation in diversion reflects efforts to protect various fundamental aspects of life. Protection of the soul (*hifz al-nafs*) is realized through efforts to protect children from the harmful effects of the criminal justice system. Protection of the mind (*hifz al-'aql*) is reflected in rehabilitation programs for drug abusers. Meanwhile, protection of offspring (*hifz al-nasl*) is seen in efforts to safeguard the child's future so that they continue to have the opportunity to develop optimally.

Furthermore, the deliberation process also has educational and spiritual dimensions. Children are not only encouraged to acknowledge their mistakes but also guided to understand moral and religious values. In this regard, deliberation serves as a means of internalizing the values of compassion, responsibility, and the importance of forgiveness in social life. Thus, diversion serves not only as a mechanism for resolving cases but also as a means of character development for children.

Strengthening of this concept is also evident in various research findings which show that the reconciliation and deliberation approach is able to reduce the stigma against child perpetrators of crimes and increase community participation in the recovery process. The involvement of religious leaders and social institutions in deliberations further strengthens the moral legitimacy of the agreements reached. (22)

Furthermore, support for the *islah* approach in diversion is obtained from the results of Lubis' research which states that one of the factors driving children to commit narcotics crimes is weak family function and social control in the environment. Therefore, diversion efforts based on deliberation and *islah* are becoming increasingly relevant, considering that solutions born from deliberation are able to present a shared commitment to improving the child's environment. Based on Rudi Hartono's analysis,

the concept of diversion compilation in juvenile criminal justice according to Islamic law is closely related to sharia principles which emphasize crime prevention, child protection, and community involvement in order to create an atmosphere of mutual forgiveness while preventing stigmatization of child perpetrators. (23)

Further practical evidence was found in observations of the implementation of diversion at the police level in the Aceh region, which showed that the deliberation forum not only involved the perpetrators and victims, but also included religious leaders, social workers, and village officials. The main focus of this finding lies in the collaborative and participatory character of the diversion process, which places the resolution of children's cases as a shared responsibility, not solely the responsibility of law enforcement officers. The involvement of various elements of society reflects the implementation of Islamic legal values, particularly the principles of deliberation (*shura*) and *ishlah* (peace), which emphasize the importance of dialogue, restoration of social relations, and the achievement of public welfare. This condition strengthens the position of diversion as a collective effort to rebuild social bridges, foster shared responsibility, and empower children from the negative influences of social interactions in drug-prone environments. (24)

Thus, it can be concluded that the concept of reconciliation and deliberation as the basis for diversion in Islamic law when applied to children caught in drug crimes has proven to be a solid foundation for achieving just, balanced, and humane solutions. Through sincere deliberation and a spirit of reconciliation oriented toward recovery, diversion becomes not merely a formal legal instrument, but a means of recovery, education, and protection for children, thereby providing ample space for children's potential to change for the better, both socially and spiritually. Implementing this concept simultaneously ensures the fulfillment of children's rights under Islamic law, strengthens social solidarity, and reduces the possibility of stigma and marginalization of children as perpetrators of drug crimes.

3. Diversion as a Form of Restorative Justice in Qanun Number 11 of 2008

The main findings of this study indicate that diversion in Qanun Number 11 of 2008 is a strategic instrument for implementing restorative justice for children caught in drug crimes in Aceh. Diversion is defined as an effort to resolve children's cases outside the

formal criminal justice mechanism, by prioritizing the restoration of social relations and the protection of the rights of children involved in legal conflicts. The implementation of diversion, as stipulated in Articles 41 and 42 of the *Qanun*, emphasizes a welfare and justice approach taken through collaboration across elements of society, ranging from traditional leaders, religious leaders, to child protection institutions. This is in line with the provisions in Articles 39 to 43 which guarantee comprehensive protection for children and require the state and society to implement efforts to restore children from the impact of the crimes they experience.

Furthermore, the implementation of diversion as a manifestation of restorative justice has preventive and protective functions. Preventively, diversion can prevent children from the negative impacts of the formal criminal justice system, such as stigmatization, negative labeling, and the potential for recidivism due to interactions with other criminals. Protectively, diversion is a means to maintain the continuity of children's growth and development while still providing space for rehabilitation and guidance. In the context of narcotics crimes, the urgency of diversion is even stronger considering that the factors causing children's involvement generally stem from environmental pressure, family dysfunction, and weak social control. Therefore, as stipulated in Article 43 of the *Qanun*, diversion must not stop at the agreement stage, but must be followed by a system of ongoing assistance, rehabilitation, and monitoring mechanisms to ensure the success of the child's social reintegration. (25)

From an Islamic legal perspective, the implementation of diversion in the Aceh *Qanun* is substantially aligned with the principles of *maqasid al-sharia*. Protection of the soul (*hifz al-nafs*), intellect (*hifz al-'aql*), and offspring (*hifz al-nasl*) is reflected in efforts to protect children from the destructive effects of narcotics and provide opportunities for self-improvement. The concept of *islah* (peace), which is fundamental to Islamic law, is also concretely implemented through deliberation mechanisms and the involvement of religious leaders in the diversion process. Thus, diversion serves not only as a legal mechanism but also as a moral and spiritual means to guide children back to the right path.

Furthermore, within the framework of Islamic jurisprudence (*fiqh jinayah*), children involved in criminal acts are categorized as individuals who do not yet have the capacity

to fully assume legal responsibility (*ghairu mukallaf*), so the approach used must be educational and rehabilitative. This further emphasizes that repressive punishment is inconsistent with the principles of child protection in Islam. Diversion, in this case, can be viewed as a form of ta'dib (counseling) aimed at improving a child's behavior without harming their future.

The effectiveness of diversion is also evident in its ability to reduce children's psychological burden, minimize social stigma, and strengthen social cohesion through active community participation. The involvement of families and communities in the case resolution process creates a sense of collective responsibility for the child's recovery. This approach not only resolves legal conflicts but also improves the social structures that contribute to crime. In the Aceh context, the integration of customary values, religion, and positive law makes diversion a contextual and effective instrument in reducing child crime rates.

Normatively, the implementation of diversion in the Aceh *Qanun* is in line with the Islamic legal perspective, which places the best interests of children as the primary focus in law enforcement. Islamic law emphasizes that children are a trust that must be protected from physical and mental harm, and restored to have a better future. The implementation of this principle is clearly seen in the involvement of religious and community leaders in the diversion process, in accordance with the *Qanun* and with the concept of *ishlah* (peace) in Islamic law. The diversion mechanism is also categorized as an effort to *ishlah* and redemption, so that the handling of children who fall into narcotics can focus on rehabilitation and moral improvement, not just punishment. (26)

The effectiveness and urgency of diversion in the juvenile criminal justice system. They agree that diversion provides a space for child offenders to improve themselves, reduces the psychological burden caused by the stigma of justice, and strengthens social cohesion through active community participation in children's recovery. This is supported by several experts who highlight the importance of diversion as a foundation for preventing re-offending by children. Another opinion is that efforts to reduce the juvenile crime rate in Aceh will be more effective with a *fiqh jinayah* approach and the principles of restorative justice, which have been adopted in regional regulations.

Thus, the implementation of diversion as a form of restorative justice in *Qanun* Number 11 of 2008 is not only based on a positive legal framework, but is also highly relevant to the principles of child protection according to Islamic law. This is reinforced by research findings that view diversion not merely as an alternative to the judicial process, but rather a transformative step that positions children as subjects of protection and recovery towards optimal social reintegration, while simultaneously preventing children from exploitation and negative labeling as prohibited in Article 30 of *Qanun* Number 11 of 2008.

B. Implementation of Diversion for Children Involved in Narcotics Crimes

The implementation of diversion for children caught in narcotics crimes in Aceh is a legal effort that emphasizes a restorative justice approach, where problem solving is more oriented towards restoring social relations and protecting children's rights, rather than conventional criminal punishment. From the results of field research, it was identified that the diversion process does not only involve law enforcement officers, but also the active role of parents, the community, and integrated service institutions, with stages that include deliberations between the perpetrator, the victim (if any), and related officers to formulate the best form of resolution for the child perpetrator of the crime. The involvement of family members and professional companions, such as counselors or social workers, is crucial to guarantee the aspect of psychological protection and ensure that children's rights are fulfilled during the diversion process. In addition, the findings also reveal that the implementation of diversion in Aceh always pays attention to local legal provisions that prioritize the principle of siding with the best interests of children, where rehabilitation programs, social reintegration, and ongoing treatment efforts are an inseparable part of the diversion mechanism. (27)

The research findings indicate that the implementation of diversion in Aceh has unique characteristics influenced by local values and community wisdom, particularly a strong culture of deliberation and a family-oriented approach. This makes the diversion process not merely procedural but also substantive, integrating positive legal aspects with local social and cultural values. The involvement of parents, community leaders, village officials, and social service institutions demonstrates that the resolution of juvenile cases

is carried out collectively and participatory, resulting in more just and sustainable decisions.

Furthermore, from a criminological perspective, diversion for juvenile drug offenders also serves as a secondary prevention measure, preventing them from repeating their actions (recidivism). This is particularly relevant given that drug crimes in juveniles generally do not occur in isolation but are influenced by environmental factors, social interactions, and weak family supervision. Therefore, a rehabilitative and reintegrative approach to diversion is an effective tool for breaking the chain of juvenile involvement in drug networks.

The principle of implementing diversion is in line with the Aceh Government Regulation and other laws and regulations related to child protection, such as Law Number 11 of 2012 concerning the Child Criminal Justice System, Law Number 35 of 2014 concerning Child Protection as an amendment to Law Number 23 of 2002, Aceh *Qanun* Number 11 of 2008 concerning Child Protection Articles 31 to 37, and Government Regulation Number 65 of 2015 concerning Guidelines for the Implementation of Diversion and Handling of Children Under 12 Years of Age. Furthermore, the obligation of regional governments to provide and facilitate various forms of services, including integrated service institutions and involving community elements, strengthens the synergy between the state and society in efforts to protect children from all forms of exploitation and violence. (28)

The affirmation in Article 37 that the government is responsible for returning children separated from their parents due to criminal acts aligns with the implementation of diversion, which aims to reintegrate children into their family and social environment, thereby minimizing the destructive effects of protracted legal proceedings. This finding is also supported by previous research, which confirms that optimal diversion implementation can provide a more humane handling space, accelerate the rehabilitation process, and significantly reduce the recidivism rate of child criminals.

Thus, the implementation of diversion in Aceh has demonstrated best practices that are consistent with the theory of restorative justice and regulations related to the protection of children's rights.(29)

1. Stages of Implementing Diversion in Child Narcotics Crime Cases

The implementation stages of diversion in child drug crime cases in the Aceh region are a strategic effort that represents a restorative approach in the juvenile criminal justice system. Diversion, as a mechanism for diverting the resolution of child cases from the criminal justice process to outside the judicial process, is implemented systematically from the investigation stage, prosecution, to trial, with the active involvement of law enforcement officers, child perpetrators, parents, and other relevant parties in the community. Based on research findings, the implementation of diversion in the Aceh region is carried out through several main stages, namely: case identification and assessment of the child's condition, consultation and deliberation between the perpetrator, victim, family and government agencies, to ensure a mutual agreement that reflects restorative justice and guarantees the protection of children's rights. All these stages require synergy between the police, social institutions, legal counsel, and local communities, to ensure that the solutions taken are not only oriented towards legal aspects, but also the psychosocial recovery of children while preventing stigma in their social environment.

The implementation of the diversion phase is in line with the theory of child rights protection, which emphasizes the importance of the principle of the best interest of the child in every case handling process, as outlined in the theoretical basis previously explained. This principle requires the state, through the provincial and district/city governments in Aceh, to actively guarantee the protection, recovery, and social reintegration of children as victims or perpetrators of crimes, especially in narcotics cases where vulnerability factors and environmental influences are crucial. This is in line with the provisions of Articles 31, 32, and 33 of the *Qanun* on Child Protection in Aceh, which emphasizes the right of children to receive legal protection, psychological assistance, and integrated services on an ongoing basis, including in the context of narcotics crimes.

Furthermore, the implementation of the diversion stages also reflects the Aceh Government's commitment as stated in Article 37, which states the regional government's obligation to strive for the return of children separated from their parents/guardians due to conflict, crime, or other emergency situations. This is actualized through the implementation of diversion by prioritizing family

reunification, providing legal assistance, and facilitating social rehabilitation, so that children caught in narcotics cases can receive optimal protection without losing their basic rights. Thus, the implementation of diversion in child narcotics crime cases in Aceh can be said to have fulfilled the paradigm of the juvenile criminal justice system which not only emphasizes the aspect of law enforcement, but also prioritizes the principles of restorative justice and the protection of children's human rights as mandated in relevant theories and legislation (Aceh *Qanun* Articles 31-37).

2. Form of Diversion Agreement in Child Narcotics Matters

The diversion agreement for juvenile drug cases in Aceh is a manifestation of efforts to resolve juvenile cases outside the judicial process through a deliberation mechanism that brings together perpetrators, victims, and other relevant parties in an inclusive manner. This diversion not only aims to resolve criminal matters but also emphasizes the recovery and social reintegration of children as individuals entitled to optimal protection and development. In practice, the diversion agreement often involves several rehabilitation options, educational measures, apologies, and periodic supervision by social agencies or the Correctional Supervisory Agency (Bapas), according to the needs and circumstances of the child concerned. The deliberation process in reaching a diversion agreement usually seeks to ensure that all parties reach a solution oriented towards the child's best interests, such as return to parents or guardians, commitment to rehabilitation, and continued guidance within the family and community.

This is in line with the principles of child protection as stated in various regulations in Aceh, which emphasize the need for psychological, social, and legal recovery of children after being involved in criminal acts, including narcotics. The affirmation of the regional government's obligation to return children separated from their parents due to criminal acts as regulated in Article 37 of the Aceh *Qanun*, as well as the obligation to provide integrated services as well as psychological support and legal assistance as regulated in Articles 32 and 33 reinforces the importance of implementing diversion that is oriented towards restoring family relationships and long-term protection for children. (30)

Thus, the form of diversion agreement in child narcotics cases is not merely a diversion of the legal process, but rather a comprehensive mechanism to fulfill children's rights as guaranteed by law and the Aceh *Qanun*, and encourage the reintegration of children into the family and community environment in a constructive manner (Articles 31-33 of the Aceh *Qanun*). This finding is also supported by the results of previous research which shows that a diversion approach carried out by involving families, social service institutions, and the community, can minimize the risk of negative labeling and support the achievement of the rehabilitation process and optimal child protection in accordance with the mandate of child protection norms in Aceh (Articles 32 and 37 of the Aceh *Qanun*). In practice, diversion agreements generally do not stop at the termination of the case, but also include obligations for rehabilitation, religious guidance, and supervision by the family and social environment, so that it functions not only as a solution, but also as a prevention.

This approach aligns with the principles of restorative justice in Islamic law, which emphasize restoration (*ishlah*) and public welfare, by positioning children as subjects who need to be nurtured, not simply punished. The involvement of families, social institutions, and the community has also been shown to contribute to reducing negative labeling and strengthening the success of rehabilitation and social acceptance of children (Articles 32 and 37 of the Aceh *Qanun*). However, the effectiveness of its implementation is still influenced by limited understanding of officials, rehabilitation facilities, and community stigma, so more integrated strengthening is needed to optimally achieve child protection goals.

CLOSING

Based on the above statement, it can be concluded that, from an Islamic legal perspective, the implementation of diversion for children caught in narcotics crimes is seen as a step in line with the values of child protection, development, and rehabilitation. This principle is related to the objectives of *maqashid al-syariah*, particularly in protecting the soul, mind, and descendants. Through an *islah* (peace) and deliberation approach, diversion provides an opportunity for children to improve themselves without having to go through a heavy criminal process, thus prioritizing restorative justice and family and community support. In

practice, diversion is an effort to resolve children's cases by prioritizing development and rehabilitation over criminal punishment. This approach provides space for law enforcement officials to take persuasive steps that are more concerned with the child's future. The implementation of diversion can also serve as a reference in formulating policies for handling children in conflict with the law, especially in narcotics cases, so that the resolution process continues to prioritize the protection, recovery, and social reintegration of children. This research is limited by the availability of references and studies specifically addressing the relationship between Islamic law and the application of diversion for children in drug cases. This limited source material prevents the discussion from fully encompassing expert perspectives or broad application practices. Therefore, further research is expected to enrich this study with more comprehensive sources and data.

REFERENCE

1. Siregar, Gomgom T.P, Muhammad Ridwan.L. Analisis faktor-faktor penyebab anak melakukan tindak pidana narkoba. *Jurnal Penelitian Pendidikan Sosial Humaniora* 2019;4(2).
2. Widiyantoro A. Diversi Penyidik Sebagai Bentuk Penyelesaian Perkara Pidana Anak Melalui Restorative Justice System (Studi Polrestabes Semarang). *Jurnal Kajian Ilmu Sosial, Politik dan Hukum*. 2024;1(1).
3. Harun N. Perlindungan Anak Perspektif Hukum Islam dan Perundang-Undangan. *Jurnal Harkat Media Komun Gend*. 2019;14(1).
4. Ningsih DA, Utara US, Ginting B, Nasution FA. Implementasi fungsi pejabat publik yang dapat diemban oleh notaris dalam menjalankan kewenangannya sebagai pejabat umum. *Jurnal Notarius*. 2022;1(2):173–81.
5. Marfinas Z, Rahman F. Efektifitas Penerapan Sanksi terhadap Tindak Pidana Anak dalam Perspektif Hukum Positif dan Hukum Pidana Islam di Wilayah Hukum Polresta Jambi. *Jurnal Greenation Sosial dan Politik*. 2025;3(3):371–9.
6. Fachrur M, Mahka R, Jaya K, Ismail A, Hukum F, et al. Diversi sebagai bentuk penyelesaian perkara pidana anak dalam sistem peradilan pidana anak. *Jurnal Al Tasyri'iyah* . 2023;3(1):71–86.
7. Surabangsa, Bambang. Analisis Konsep Diversi Dan Keadilan Restoratif Dalam Peradilan Pidana Anak di Indonesia Perspektif Hukum Islam. *Jurnal Hukum Islam*. 2022;22(1):53–70.
8. Mukdin, Khairani, Novi Heryanti. Gender Equality: International Journal of Child and Gender Studies. 2012. *Jurnal ABH*. 6(11):61–70.
9. Romdoni, Muhammad. Konsekuensi Legal Kegagalan Upaya Diversi Terhadap Anak Yang Berhadapan Dengan Hukum Dalam Tindak Pidana Narkoba. *Jurnal Hukum Pidana Islam*. 2022;8(2).
10. Soejono, Soekanto. Pengantar Penelitian Hukum. Jakarta : Universitas Indonesia Press; 2012. hlm 9.
11. Razak.M.H. Metode dan Pendekatan Dalam Penelitian Hukum, *Law Review*. 2006.
12. Wartini A. Hak Pendidikan Anak Dalam Keluarga Dalam Pandangan Imam Syafi'i Dan Relevansinya Dengan Pendidikan Anak Usia Dini Di Indonesia *Jurnal Musawa*. 2015. 14 (1).

13. Puspitasari NS, Herlambang MG. Tinjauan Yuridis Normatif Perlindungan Anak Dalam Perspektif Konsep Hadhanah Dan Undang-Undang Nomor 35 Tahun 2014 Normative. *Jurnal Bidang Hukum Islam*. 2024;5(2):309–21.
14. Nashih A, Dan U, Pada R, Anak P. Konsep pendidikan anak shaleh perspektif abdullah nashih ulwan dan relevansinya pada pendidikan anak. *Jurnal Pendidikan Tematik*. 2020. 520–52.
15. Hanifah, Abu. Analisis Madzhab Syaf ' i Dan Hanafi Tentang Batasan Usia Perkawinan. *Al Muqaranah : Jurnal Perbandingan Hukum dan Mazhab*. 2025.3(1):14–29.
16. Qanun Aceh Nomor 11 Tahun 2008.
17. Mu'adil Faizin. *Hukum Perikatan Islam di Indonesia*. Kolaborasi Pustaka Warga; 2022. hlm 112.
18. Hidayat I.N. Perlindungan Anak dari Kekerasan dalam Rumah Tangga : Perspektif Hukum Nasional dan Islam Berbasis Mubadalah. *Jurnal Heksa* 2025;1(April):31–46.
19. Putra. R.S. *Hukum Islam dan Perlindungan Anak*. *Jurnal Ilmu Sosial dan Hukum*. 2025;10801–13.
20. Haniyah. Konsep Restoratif Justice Terhadap Pelaku Tindak Pidana Anak Wujud Implementasi Nilai Islam Dan Kearifan Lokal. *Jurnal Uin Sunan Ampel Surabaya*. 2024;(54):915–26.
21. Makhruj Munajat. *Hukum Pidana Anak di Indonesia*. Jakarta: Sinar Grafika; 2022. hlm 78.
22. Sri Rahayu Amri & Sri Ratna Dewi. *Perlindungan Hukum bagi Anak Pelaku Tindak Pidana Penyalahgunaan Narkotika*. Bandung: Widina Media Utama; 2024. 67 p.
23. Lubis. M.R. Analisis Faktor-Faktor Penyebab Anak Melakukan Tindak Pidana Narkotika. *Jurnal Penelitian Pendidik Sosial Humaniora*. 2019;4 (2).
24. Rachmawati R. Penyelesaian Perkara Anak Yang Berhadapan Dengan Hukum Menurut Undang-Undang No. 11 Tahun 2012 (Analisis Maqashid Al Syariah) . *Jurnal Tahqiqat Ilmu Pemikir Huk Islam*. 17(2).
25. Lubis. M.R. Analisis Faktor-Faktor Penyebab Anak Melakukan Tindak Pidana Narkotika. *Jurnal Penelitian Pendidikan Sosial Humaniora . Jurnal Penelit Pendidik Sos Hum*. 4(2).
26. Rudi Hartono.I. Implementasi Kompilasi Diversi Dalam Peradilan Pidana Anak di Indonesia Perspektif Hukum Islam. *Jurnal Hukum Kel*. 2019. 7(2).
27. Ismail.M.F. Analisis Penerapan Diversi Terhadap Anak Pelaku Penyalahguna Narkotika (Studi Putusan Nomor: 45/Pid.Sus-Anak/2019/PN Tjk). *Jurnal Hukum Progresif Jurnal Hukum Progresif*. 2024;7(7):112–7.
28. Putri A. Priamsari. Mencari Hukum Yang Berkeadilan Bagi Anak Melalui Diversi . *Kejaksaaan Negeri Temanggung*. 2014; 18 (2).
29. Renhard Harve. *Penyelarasan Aturan Tentang Sistem Peradilan Anak*. Yogyakarta: CV Budi Utama; 2024. 105 p.
30. Najemi A, Nawawi K, Purwastuti L. Rehabilitasi Sebagai Alternatif Pemidanaan Terhadap Anak Korban Penyalahgunaan Narkotika Dalam Upaya Perlindungan Terhadap Anak. *Jurnal Sains Sosio Humaniora*. 2020;4:440–54.