

ISSUES WITH THE ENFORCEMENT OF THE LAW AGAINST DRUG USERS (Study of Decision Number): 214/Pid.Sus/2024/PN.Mdn)

Roslina Tiur Melia *, Mhd. Azhali Siregar

Master of Laws, Universitas Pembangunan Panca Budi

Jl. Gatot Subroto No.km, Simpang Tj., Kec. Medan Sunggal, Kota Medan, Sumatera Utara 20122, Indonesia

Email: roslinamelia1981@gmail.com

Abstrack

Because it can harm the nation's values, the government views the distribution and usage of drugs as one of the major national issues. Drug offenders frequently receive punishments based on court rulings that fall short of providing a sense of justice and legal clarity. Articles 114, 112, and 127 of Law Number 35 of 2009 concerning Narcotics are among the provisions that are frequently utilized to trap offenders in drug-related crimes. Two of the three articles—Article 112 and Article 127 of Law Number 35 of 2009 regulating Narcotics—are subject to various interpretations and ambiguous wording. As a result of the articles' multiple interpretations, drug dealers and other criminals will pretend to be victims of drug-related crimes. that this will affect the imposition of short sentences, leading to unfairness in the process of implementation. The data and facts gathered by examining court rulings pertaining to criminal penalties against drug offenders and connecting them to relevant laws and regulations constitute the normative legal nature of this research, which is a method that describes or explains a fact in a methodical manner. According to the study's findings, this appears to be far more challenging in the realm of drug law enforcement. It appears that our law enforcement is ingrained in prioritizing criminal consequences. On a local, national, and worldwide scale, extraordinary encouragement is required. Regarding the case under investigation, the judge of the Medan District Court found the defendant legally and convincingly guilty in accordance with Article 112 paragraph (1) of Law No. 35 of 2009 concerning Narcotics. The defendant, Veri Suriana, also known as Veri, was sentenced to six (six) years in prison and a fine of Rp. 1,000,000,000, - (one billion rupiah), with the clause that if the fine is not paid, it will be replaced with a six-month prison sentence.

Keywords: Law Enforcement, Drug Abuse

INTRODUCTION

Narcotics Law Number 35 of 2009 does not provide sufficient limitations on who is meant by a dealer and who is meant by an addict. Likewise, Law Number 35 of 2009 concerning Narcotics explains that Narcotics Addicts and victims of Narcotics abuse are required to undergo medical rehabilitation and social rehabilitation. This means that the law only requires rehabilitation for addicts and victims. What is meant by victims is only a little and is very limited explained in the explanation of Article 54 that "victims of narcotics abuse"

are someone who accidentally uses narcotics because they are persuaded, tricked, deceived, forced, and/or threatened to use narcotics, while the definition of an addict is a person who uses or abuses narcotics and is in a state of dependence on narcotics, both physically and psychologically. In Indonesia, the issue of law enforcement is a never-ending spotlight, especially in the issue of the criminal justice system. One of the issues that is in the spotlight is the relationship between the criminal justice system and the problem of narcotics (narcotics, psychotropics and other addictive substances) which should be handled with various approaches, but in practice, the punitive approach is the main pillar. In the international world, narcotics policy has developed further after the birth of 3 UN Conventions on Narcotics, namely the Single Convention on Narcotic Drugs 1961, the Convention on Psychotropic Substances 1971 and the UN Convention on the Eradication of Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988.

With the passage of Law Number 8 of 1976 concerning the Ratification of the Single Convention on Narcotics 1961 and the Protocol amending it,³ and Law Number 7 of 1997 concerning the Ratification of the UN Convention on the Eradication of Illicit Trafficking in Narcotics and Psychotropics 19884, as well as the subsequent publication of Law Number 5 of 1997 concerning Psychotropics and Law Number 22 of 1997 concerning Narcotics, Indonesia's drug policy has changed in response to numerous global developments. The most recent law, which replaced Law Number 5 of 1997 with Law Number 35 of 2009 concerning Narcotics, combines the substance regulations found in the sections on psychotropics and narcotics and parties with specific authorities.

Alternative approaches to the drug problem have been the subject of discussions and proposals around the world, in contrast to Indonesia's strategy. Of the many strategies that are becoming more and more popular, criminalization is not the only one. The two main components of what is now widely regarded as an effective strategy are public health initiatives and offering financial alternatives to drug-related issues. For instance, the UK now admits that its drug laws, including those that criminalize users, need to be changed. "Drug addiction, alcoholism, and tobacco should be regarded as public health concerns, not criminal justice issues," said Otto Perez, the president of Guatemala, who advocated for the legalization of some drug usage. In contrast, Portugal has made extraordinary legal breakthroughs with these two countries. Since 10 (ten) years ago, the Portuguese government has abolished criminal provisions against people with drug dependency and even against abusers in certain categories.

Drug abusers and addicts who use drugs for purposes other than medical ones, even going beyond the amount that the body can handle, and overdosing, are common issues with drugs. Drug misuse has the potential to weaken society's, the country's, and the state's resilience.

According to Law No. 35 of 2009, drug abusers are defined as those who violate Article 1 Number 15 and drug addicts as defined by Article 1 Number 13. People who use or abuse drugs and are physically and psychologically dependent on them are considered drug addicts. People who use drugs illegally or without permission are known as abusers. There are two categories of elements that contribute to drug-related crimes: internal factors and external ones.

The perpetrator of drug crimes typically has internal factors, such as a rattled soul and a

sense of hopelessness, which need to be calmed, secure, and comforted in order to remove the anxiety and sorrow they are experiencing. Social circles, environmental influences, and pressure from specific parties are examples of external causes that originate from sources outside the drug offender.

Teenagers, adults, and children are among the ages of drug abusers and victims. Illegal drug use has increased and spread over the globe. Drug misuse is currently a serious issue in Indonesia. The Indonesian people's awareness of their disregard for religion beliefs, customs, and laws is one of the factors contributing to this predicament. The rise of drug misuse and the dissemination of drugs are substantially aided by the sophistication and simplicity of transportation and technology, which is why there are many cases of drug users, drug dealers, and drug smugglers.

According to victimology, a person who is duped into delivering drugs is also a victim, but in reality, they may be regarded as a drug crime perpetrator. For instance, a very naive person is approached by someone else to bring something that will be given to the other person's friend. The person's goal is to assist the naive person in carrying the item, but shortly after, law enforcement discovers that the person is carrying a drug package.

The case that is the object of this study is the Decision Number: 214/Pid.Sus/2024/PN.Mdn. The defendant named Veri Suriana alias Veri was legally and convincingly found guilty of committing a crime of "without rights and against the law possessing, storing, controlling or providing Class I Narcotics, not plants",

as prohibited under Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics (Second Charge) and subject to a criminal penalty for violating Article 112 paragraph.

The defendant was given a sentence of seven (seven) years in prison, less the time served, along with a fine of Rp 1,000,000,000,- (one billion rupiah), with the clause that if the fine is not paid, it will be replaced with six (six) months in prison. The defendant was also ordered to remain in detention.

The Circulation, Distribution, and Delivery of Narcotics are regulated in Chapter VI of Law Number 35 of 2009 concerning Narcotics. According to Article 35 of this law, the Circulation of Narcotics includes any activity or sequence of activities of distribution or delivery of Narcotics, whether in the context of trade, non-trade, or transfer, for the benefit of health services and the advancement of science and technology. Additionally, according to Articles 7 and 8 of the Narcotics Law, Class I Narcotics can only be used for such advancements.

Furthermore, Law Number 35 of 2009 concerning Narcotics states that it has regulated the licensing of organizations or bodies involved in the distribution of narcotics and does not recognize any individual or person to control, possess, store, or deliver Class I Narcotics. Additionally, it prohibits the use of Class I Narcotics for Health Services purposes. In this instance, however, the defendant offered to sell, buy, receive, act as a middleman in the purchase and sale, exchange, or transfer Class I Narcotics without authorization or in violation of the law. During the defendant's body search, East Medan Police discovered three (3) small transparent plastic packages containing crystal methamphetamine, where Hanafi alias Napi had instructed the defendant to sell the drug to others, as well as Rp 215,000 (two hundred and fifteen thousand rupiah) in the defendant's trouser pocket. Because of the defendant's

actions, which are regulated and threatened in Article 114 paragraph (1) of Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics, the defendant in this case did not have authorization from the authorized party to purchase, sell, or act as an intermediary in the purchase and sale of narcotics.

The penalties for violating Article 114 of the Narcotics Law include a minimum sentence of five years in prison and a maximum of twenty years, as well as a fine of at least IDR 1 billion and a maximum of IDR 10 billion for those who offer, sell, buy, receive, act as an intermediary in the sale and purchase, exchange, or hand over Class I Narcotics without authorization or in violation of the law.

Formulation of the Problem

From the description of the problems above, there are two things that can be used as problem formulations in this study, namely:

1. How is the Narcotics Policy Regulation in Indonesia so that it has a solution-oriented impact in efforts to combat illegal narcotics trafficking?
2. What is the basis for the judge's consideration in making a decision against perpetrators of narcotics abuse?

RESEARCH METHODS

In order to address the issues under investigation, research methodologies are employed. Sugiyono (2012) asserts that methodology is a scientific approach to data collection with specific objectives and applications. Surakhmad (2004), on the other hand, emphasizes that the method is the primary means of achieving a goal, such as the employment of analysis tools to analyze a number of hypotheses.

Normative legal research, also known as doctrinal research, library research, or document studies, is the type of research that is employed. Anything that can offer details on the data under study is considered a data source. The author employed two types of data sources for this study: primary data and secondary data. One of the references utilized as a research target with the goal of learning the facts and truth about the research under study is the object of the study. The Surakarta District Court is the subject of the study.

Interviews, documentation, and literature reviews are the research methods employed in the data collection process. The purpose of this analysis is to comprehend the concepts and relationships found in the material under study. In this instance, researchers examine information gathered from research participants' interviews. Miles and Humberman (1984) state that data reduction, data presentation, and conclusion drawing are all components of data analysis employed in qualitative research.

RESEARCH RESULTS AND DISCUSSION

1. Regulation of Narcotics Policy in Indonesia to have a solution-oriented impact in efforts to combat illegal narcotics trade.

The data shows the effects of Indonesia's drug regulations during the previous 15 years. One of these is the growing number of HIV/AIDS cases, which is directly linked to injecting drug usage. According to the available data, there were 21,591 HIV-positive individuals in 2010 and 21,031 in 2011, with the number of HIV-positive individuals reaching 9,883 as of March 2012. In 2010, there were 5,744 AIDS cases; 2,224 cases were reported in March 2012; and 4,162 cases were reported in 2011.¹⁷ Approximately 10,265 IDUs with AIDS, or 53% of all AIDS cases over a 5-year period, are injecting needle users (IDUs), who continue to contribute significantly to HIV/AIDS incidence.¹⁸ Drug cases are another factor contributing to the high difficulties of jail overcrowding, in addition to infectious diseases. Between 2007 and 2011, 10,851 people, or 37.5% of all drug-related cases in Indonesia, were caused by drug consumption. Of the 85 total cases, just 0.2%, or about 17 cases, are producers. This represents 0.2% of planting cases.¹⁹ The Director General of Corrections reports that in 2009, excess capacity was 56.81%. Of the 140,423 inmates, 37,295 had drug-related offenses; 285 of these inmates passed away while incarcerated, and 89 of them died from HIV/AIDS.

Given the aforementioned issues, it is appropriate that Indonesia's drug policy be changed right away. Not to mention the rise in stigma and discrimination that drug users and abusers face, which makes many of them reluctant to come forward and disclose their drug use in order to enroll in a rehabilitation program.

There are still many instances of drug users or abusers being imprisoned and eventually losing access to medical care, despite the Supreme Court's 2010 Circular Letter, which recommended that every judge hearing a drug case issue a rehabilitation verdict for addicts or those who bring drugs for personal consumption in amounts below the circular. The arbitrary actions of law enforcement in carrying out investigations, inquiries, and rulings in the criminal law process are among the factors that complicate and even regress Indonesia's drug policy, which is not in accordance with Human Rights (HAM). Actually, there are currently three (three) fundamental drug policy principles that need to be taken into account: 1) human security, 2) development, and 3) public health. The model or approach of Indonesia's drug policy has to be changed to align with the key tenets of successful drug policy. In addition to political concerns and diplomatic sensitivities, the dispute between social and health policies must be taken into account while assessing drug policy. Five key guidelines for developing successful drug policies were developed by the International Drug Policy Council (IDPC):

1. Drug policies should be developed through a structured and objective assessment of priorities and evidence
2. All activities should be undertaken in full compliance with international human rights law
3. Drug policies should focus on reducing the harmful consequences rather than the scale of drug use and markets
4. Policies and activities should seek to promote the social inclusion of marginalized groups

5. Governments should build open and constructive relationships with civil society in the discussion and delivery of their strategies.

According to the first principle, it is critical to have an unbiased evaluation of priorities that is supported by scientific data. Although the government has declared repeatedly that a humanist and health approach has been favored, it is not surprising that the number of drug users who are criminalized remains high in Indonesia, where the drug problem is frequently found to be simply a criminal law policy.

According to the second premise, the policy must be founded on the realization of international human rights, which Indonesia has yet to do up to par. Every year, a number of non-governmental organizations report on human rights breaches that have taken place. In Indonesia, this third policy is frequently not followed. Although Indonesia's drug policy is thought to target drug producers and sellers, the evidence shows that the main targets of the drug criminalization system are users and addicts. In actuality, drug users' health—rather than just the drug trade itself—is the main effect of drug use.

The idea of specific protection for marginalized populations is emphasized in the fourth principle. The economically disadvantaged minority is frequently the target of law enforcement. This is demonstrated by the number of drug case suspects, the majority of whom only completed elementary school (11.8%), followed by junior high school (27.7%) and high school (about 61.9%) of the total population (181,426); only 2.6% of the suspects, or 4,868 people, attended universities.²¹ According to BNN data, the second-largest group of drug case suspects is the unemployed, accounting for 6,487 of the 85,689 suspects in 2007.²² The fifth principle should guide cooperation with non-governmental organizations. This remains a challenge because it will be challenging to establish a tight relationship between the government and civil society as long as collaboration amongst state entities is still highly tough. The fundamental query that frequently comes up is whether it is accurate to say that a harsh drug policy frequently infringes on human rights because of the capriciousness of law enforcement. The significance of this issue has led the UN Human Rights Commission to publish a set of guidelines for safeguarding everyone in the court system while they are in custody or incarcerated.²³ These established guidelines are frequently broken in drug-related situations and appear to be disregarded by drug users or addicts. A few principles that are frequently broken when they are connected to the Napza case are that sanksi hukum must always be given in a tactful and impartial manner.

The defendant, Veri Suriana alias Veri, with the aforementioned identity, was found legally and convincingly guilty of committing the crime of "Without the Right to Possess or Control Class I Narcotics." The Medan District Court's panel of judges determined that the defendant had complied with the requirements of Article 112 paragraph (1) of Law Number 35 of 2009 concerning Narcotics, Law Number 8 of 1981 concerning Criminal Procedure Law, and other relevant legal provisions. The defendant was sentenced to six (six) years in prison and a fine of Rp 1,000,000,000 (one billion rupiah), with the clause that if the fine is not paid, it must be replaced with a six-month prison sentence.

2. Medan District Court Decision Number: 214/Pid.Sus/2024/PN.Mdn. Judge's Considerations in Sentencing of Narcotics Abuse Crimes offenders

Looking back at this case, the judge considered a number of factors before rendering a decision on the defendant, who had been found legally and convincingly guilty of the crime of "Without the Right to Possess or Control Narcotics Class I," which carries a sentence of six (six) years in prison and a fine of Rp. 1,000,000,000, - (one billion rupiah), with the provision that if the fine is not paid, it must be replaced with six (six) months in jail. These factors are included in the author's research study.

a. Examining each individual's element

According to the Panel of Judges, "Every Person" is defined as a Legal Subject who acts as an actor or who performs a legal act or event; in this situation, this includes an individual, a group of people, or a legal entity that is the one who committed the conduct as detailed in the indictment.

The defendant is a person, so according to legal science, a person is included in the definition of a legal subject or perpetrator of a legal act or event, so the submission of the defendant as a legal subject has been proven to fulfill the provisions of the law, so this element is declared to have been proven and fulfilled according to the law and therefore it will be considered next whether the defendant is proven to have committed the act that he is accused of.

The perpetrator referred to is the perpetrator of a crime, meaning a person who commits a crime, in the sense of a person who intentionally or unintentionally as implied by the law, whether it is subjective elements or objective elements, regardless of whether the decision to commit the crime arose from himself or not due to the movement of a third party. Criminal Acts are a formulation of acts that are prohibited from being carried out (in statutory regulations) accompanied by the threat of criminal penalties for anyone who violates the prohibition.

The act (feit) referred to here is the main element of a formulated criminal act. The following criteria can be used to distinguish between criminal acts: According to the above description, if a set of criminal sanctions that have been applied are the consequence of poor decisions or are no longer in line with developments, it is normal for this development to be somewhat disrupted with regard to the criminal provisions regulated in Law Number 35 of 2009 concerning Narcotics. In this instance, one of the challenging issues in the field of criminal policy is the rise and evolution of criminal crimes on the one hand, and the restricted range of criminal penalties that judges and prosecutors can use on the other.

The elements of a crime in criminal law are generally as follows:

1. Human actions; Both active actions (criminal acts) or passive actions (criminal acts).
2. The act is contrary to or against the law.
3. The act must be subject to a penalty in the law.
4. There must be evidence of the act on the person who committed it, namely the person must be accountable.
5. The act must be carried out by a person who is legally competent and accountable.

There are two types of additional considerations for criminal mitigation, namely objective and subjective. Therefore, the ingredients of a crime consist of:

1. is a human act;
2. satisfies the formal standards outlined in the law; and
3. The human act violates the relevant legal criteria.

Formal conditions are needed to fulfill the principle of legality of the law itself. This implies that if a conduct is covered by legal laws, it may be classified as a crime. Sanctions from the applicable legal regulations cannot be applied to human actions that are not or have not been governed by them. Usually, new legal restrictions will be developed to regulate these behaviors. If described, the ingredients of a crime consist of subjective and objective factors. Subjective components that provide an explanation of the human being in question, which can be understood as any individual, government official, civil servant, business, or organized group of individuals.

Subjective aspects which include:

1. Intention (*dolus*), when determined in breach of the Criminal Code's moral standards (Article 281), deprivation of liberty (Article 333), or murder (Article 338).
2. Article 334 of the Criminal Code defines negligence (*culpa*), which includes deprivation of liberty, among other things.
3. Intention (*voornemen*), which is demonstrated by attempts or pinging (Criminal Code, Article 53).
4. Intent (*oogmerk*), which can be found in a variety of crimes, including fraud (Article 378 of the Criminal Code), extortion (Article 368 of the Criminal Code), and theft (Article 362).
5. With prior planning, or "*met voorbedachte rade*," which includes killing one's own child (Article 341), abandoning one's own child (Article 308), and killing one's own child with premeditation (Article 342).

According to Law Number 35 of 2009 concerning Narcotics, drug misuse, namely abuse by those who are not permitted or entitled, accounts for the majority of criminal crimes. The issue with Law Number 35 of 2009 that poses the greatest threat to drug addiction crimes is that those who use, transact, provide, and so forth are healthy individuals rather than ill. The existence of a person's legally protected rights or power is the root cause of the idea of abuse. Any deviation, action, or conduct by someone who is not entitled or permitted to use or distribute drugs is considered drug abuse.

Drug crimes in general and drug-related crimes in particular are frequently linked to corporate crimes, money laundering crimes, multinational crimes, and other types of criminal activity. Drug crimes, both specifically and generally, are considered transnational crimes since they take place outside of Indonesia's boundaries, such as when foreign-based networks or syndicates import drugs into the nation. According to Marwan Effendy, corporate crime, often known as crime by corporation, is frequently confused with organized crime-related white collar crime.

3. Consideration of the Elements Without Rights or Against the Law of Storing, Controlling, or Providing Class I Narcotics that are not plants

The element of no rights is equated with unlawful so that what is meant by "no rights or unlawful" is the existence of an act carried out by the Perpetrator that is contrary to the provisions of the legislation which in the aquo case is an act related to Control, Ownership, Illegal Distribution of Narcotics and Narcotics Precursors which is determined as a criminal act. In criminal law, there is a doctrine of unlawful nature. It is true that the panel of judges has applied one of the teachings of unlawful nature, namely the teaching of formal unlawful nature.

Given the legality concept of *nullum delictum noella poena, sine praevia legi poenali* (no act can be punished unless under existing rules and regulations), as stated in Article 1 paragraph (1) of the Criminal Code, this can be justified. In addition to the teaching of formal unlawfulness, there is also the teaching of material unlawfulness, which states that an act is illegal (*onrecht*) if it violates the language of the law as well as the prevailing sense of justice or perspective on life in the community. Both formal and material unlawfulness must be met before the act can be considered unlawful with regard to the element of the act (as one of the prerequisites for punishment).

Furthermore, the phrase "any person who is without rights or against the law" is found in the Narcotics Law and is linked to a number of criminal offenses involving the consumption of narcotics, if we look at the elements of a criminal act in Articles 111 to 126 of the law. According to the Narcotics Law, there are four types of illegal behavior that are forbidden by the law and may result in criminal penalties. These include:

1. The first group, which includes actions that involve the possession, storage, control, or provision of drugs and their precursors (Articles 111 and 112 for class I drugs, Article 117 for class II drugs, Article 122 for class III drugs, and Article 129 letter (a));
2. The second category, which includes behaviors such as manufacturing, importing, exporting, or distributing drugs and their precursors (Article 113 for class I drugs, Article 118 for class II drugs, Article 123 for class III drugs, and Article 129 letter (b));
3. The third category, which includes behaviors such as offering for sale, selling, purchasing, receiving, serving as a middleman in the purchase and sale, exchanging, or transferring drugs and their precursors (Articles 114 and 116 for class I drugs, Article 119 and 121 for class II drugs, Article 124 and 126 for class III drugs, and Article 129 letter (c));
4. Acts involving the carrying, shipping, transporting, or transiting of drugs and their precursors fall within the fourth category (Article 115 for class I drugs, Article 120 for class II drugs, Article 125 for class III drugs, and Article 129 letter (d)).

The defendant in the case the author examined, Veri Suriana, also known as Veri, was found legally and convincingly guilty of possessing, storing, controlling, or supplying Class I narcotics other than plants of the shabu-shabu type, which is a crime without rights or against the law (Article 112 paragraph (1) of the Narcotics Law). In addition to imposing a sentence of six years in prison, the judge ordered the defendant to pay a fine of Rp1,000,000,000 (one billion rupiah), with the warning that failure to do so would result in a three-month jail sentence. Generally speaking, if the word "illegal" is included in the definition of a criminal

act, it might be understood to mean "without authority" or "without rights." Therefore, according to the formal legal definition outlined in the Narcotics Law, the phrase "without rights" is a component of the phrase "against the law." Accordingly, Pompe stated that the term "against the law" (*wederrechtelijk*) refers to something that is not strictly against the law, but rather to something that is opposite to the law.

However, the elements of "possessing, storing, controlling, or providing" are not further explained under the Narcotics Law. The Big Indonesian Dictionary (KBBI) defines possession as (1) having, and (2) taking unlawfully to be owned (<https://kbbi.web.id/milik>, retrieved on July 18, 2024). Even if the products are not physically in the owner's hands, the concept of owning or possessing in this article implies that the owner must be the true owner. However, in the context of the Narcotics Law, ownership must be viewed from the perspective of how the goods can be owned by the defendant (their origin). Regardless of whether the defendant bought, planted, or received the drugs as a gift, the key is that there must be a direct connection between the offender and the drugs in order for them to be referred to as "owners" (Sujono and Daniel).

Additionally, the term "save" is used to refer to KBBI, meaning to deposit it in a secure location to prevent damage, loss, etc. (<https://kbbi.web.id/simpan>, visited July 18, 2024). The definition of control in the Narcotics Law is likewise vague, leaving open the question of whether drugs are restricted for possession, distribution, or consumption alone. The primary issue with the word "control" in this law is that many drug offenders who are caught red-handed in possession of drugs for consumption are subject to the article meant for drug dealers because the definition and limitations of the elements of controlling drugs are not explained.

AR Sujono and Boby Daniel said the following about the concept of control: "To control is to have power over (something); to hold power over something." A person is considered to have control over goods if he can exert control over what he controls. It does not matter if the object is physically within his control; what matters is that the offender can act in ways that demonstrate that he truly has control over the goods, such as selling, giving, or other actions."

According to the Civil Code (KUH Perdata), control is defined as "bezit," which is meant to refer to the position of authority. "A position of power is the position of a person who controls an object, either by himself or via another person, and who maintains or enjoys it as the person who owns the object," according to Article 529 of the Civil Code.

In addition, Article 1977 of the Civil Code states that "Whoever controls it is regarded to possess it for movable items that are not in the form of interest, or receivables that do not have to be paid to the bearer." It is evident that the position of someone who is the owner of an object and has the ability to preserve and enjoy it and manage it either directly or through another person is known as power.

"The Court is of the opinion that the assessment of a case in a concrete case is actually the domain of law enforcement in this case the investigator," the Constitutional Court stated in Decision Number: 31/PUU-XV/2017 in reference to the confusion contained in Article 112 paragraph (1) of the Narcotics Law. The Court stated that the phrase "controlling, possessing, and storing"—which must be associated with the existence of evidence in the person of a person suspected of being an abuser—has a very clear meaning in terms of terminology." The

goal of the drugs being owned, controlled, or stored must be taken into consideration when applying the elements of possessing, storing, or controlling in Article 112 paragraph (1).

The most important thing to note is if it is being manufactured, exported, imported, transited, disseminated, or given away for personal use or for trading. This clause is more suited to be applied to those engaged in the illegal drug trade as manufacturers or distributors of drugs, rather than to abusers who face punishment for their own drug abuse, since it imposes minimum criminal penalties for both imprisonment and fines. When it comes to drug usage, the judge's job is to determine the harshest penalty for drug sellers or syndicates.

This aims to achieve the ideals and goals of the state as stated in the opening of the fourth paragraph of the 1945 Constitution of the Republic of Indonesia, namely to form an Indonesian state government that protects all Indonesian people and all Indonesian territory and to advance general welfare, improve the life of the nation, and participate in implementing world order based on independence, eternal peace, and social justice.

CONCLUSION

1. Examining Indonesia's narkotika kebijakan, which is based on UU Narkotika kedua kalinya, reveals that it is generally successful in achieving the goals of effective narkotika kebijakan, which include reducing narkotika pasokan, reducing dampak buruk Napza using the HAM principle, and ensuring legal compliance. In Indonesia, narkotika kebijakan must be carried out by putting them in a position that is more conducive to their health, namely by implementing rehabilitation laws. However, this reformation effort is still not consistent with all of the hukum tingkatan. Reformasi kebijakan narkotika is not possible and will not be successful. There is a need for more time to develop more effective rencana and upaya in order to create narkotika kebijakan in Indonesia. However, in the context of narkotika law, this will be more problematic. Deploying the pidana hukuman as it is currently rather severe in our hukum penegak tubuh. It is necessary to have a strong local, national, and international presence. As a result, Hakim Pengadilan Negeri Medan's kasus in this study explains in a clear and concise manner that bersalah bersalah bersalah pasal 112 ayat (1) UURI Nomor 35 tahun 2009 about Narkotika by stating that pidana terdakwa Veri Suriana as Veri tersebut is based on pidana penjara for six (enam) Tahun and Pidana Denda for Rp. 1.000.000.000,- (one million rupiah) and that if the pidana Denda is not paid for, it must be compared to pidana penjara for six (enam) Bulan.
2. In the meantime, by taking into account the legal facts, the Medan District Court Panel of Judges decided to directly select the charges as outlined in Article 112 paragraph (1) of Law of the Republic of Indonesia No. 35 of 2009 concerning Narcotics, which has been satisfied in terms of the elements of every person and the element of lacking rights or being in violation of the law pertaining to the storage, control, or provision of Class I narcotics, not plants. The defendant in this case is a person who fits the definition of a legal subject or actor of a legal act or event. If the defendant's submission as a legal subject has been proven to meet the requirements of the law, then this element is declared to have been proven and fulfilled in accordance with the law. On the other hand, the element without rights is equated with being against the law, meaning that the existence

of an act carried out by the actor that is against the provisions of the legislation, which in the aquo case is an act related to the control, ownership, and illegal distribution of narcotics and their precursors, which are determined to be criminal acts of narcotics and their precursors as defined in Law Number 35 of 2009 concerning narcotics.

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