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## **The Law Enforcement of Narcotics Crime**

A Case Study of District Court Decision No.

936/PID.SUS/2021/PN.SDA

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### **ABSTRACT**

*This research contained the forms of criminal responsibility in the narcotics crime based on a case study of district court No. 936/PID.SUS/2021/PN.SDA and its aim to find out the judge's consideration against the criminal act of storing narcotics in class 1 for cannabis type. The research was conducted in Sidoarjo District Court by analyzing the judge who handled the case related to the narcotics crime and examining documents related to the existing case. There are two important things which described the problem solving of this case, these are (1) criminal responsibility in narcotics crimes fulfills the elements of criminal responsibility, such as being able to take responsibility, the existence of intentional mistakes and no leniency for the accused in order to held accountable; (2) the judge's legal considerations in deciding the decision on the criminal case No. 936/PID.SUS/2021/PN.SDA with the existence of valid evidence and the judge is sure of its evidence.*

**Keywords:** *Law Enforcement, Narcotics, Narcotics Abuse*

## INTRODUCTION

The abuse of narcotics and illegal drugs in Indonesia is one of the biggest cases which is the responsibility of the government and also the community in tackling the narcotics abuse and illegal drugs. The level of narcotics abuse in society is very disturbing to all parties, both in terms of dangerous impact that are short term and long term, then in terms of the danger felt by personal users, their families or the community. It means that drug abuse will be damage the body, soul, their good names, and the Indonesian future. Unfortunately, there are still quite a lot of Indonesian people who do not aware to the problem of drug abuse, especially teenagers.

According to the World Drugs Reports 2021 research published by the United Nations Office on Drugs and Crime (UNODC), it was stated that there were 275 million people in the world or 5.6% of the world's population (around the age of 15-64 years) have used drugs. Meanwhile, BNN as the focal point in the field of Prevention and Eradication of Drug Abuse and Illicit Trafficking (P4GN) in Indonesia stated that drug abuse had rates around 3,376,115 people in the age range 10-59 years in 2020.

Drugs and illegal drugs have penetrated all levels of Indonesian society. The scope of distribution of these illegal drugs covers various public facilities, such as bars, colleges, schools, and even spreads to residential areas. Most of the users of these illegal drugs come from the upper middle class, but nowadays poor people have also become drug users. It caused the diversity of narcotics types.

According to the research of Asep Iswahyudi and Sri Kusriyah, their research result described that the Central Java Regional Police's area was already home to a disturbing level of drug crime that not only affected the adult population but even teenagers and young children. The Narcotics Research Directorate of the Central Java Regional Police is responsible for both penal and non-penal means of enforcing Act No. 35 of 2009 concerning Narcotics. There are still issues with "defining the Chapter General Provisions of Act No. 35 of 2009 concerning" Narcotics in the effort to enforce law enforcement through the implementation of the Narcotics Law. The definition of "in the Chapter General Provisions of Act No. 35 of 2009 concerning Narcotics" has an impact on how drug addicts, abusers, and victims of drug abuse are treated when dealing with drug sellers or distributors. The lack of adequate areas, infrastructure, and facilities for the Central Java Regional Police's Narcotics Diresnarkoba, as well as the general lack of public knowledge about the dangers of narcotics, are the main factors impeding the enforcement of Act No. 35 of 2009 concerning Narcotics by the Directorate of Drug Research at the Central Java Regional Police.<sup>1</sup>

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<sup>1</sup> Asep Iswahyudi Rachman and Sri Kusriyah, "Law Enforcement Of Narcotics Laws," *Law Development Journal* 2, no. 2 (October 4, 2020): 139, <http://jurnal.unissula.ac.id/index.php/ldj/article/view/11473>.

Meanwhile, according to Thitos Bryan and Amin Purnawan in their research stated that the execution of the death penalty is one of the tough law enforcement efforts to emphasize that drug abuse is a very dangerous thing. That in theory, the applicable narcotics law has been very effective in investigating drug criminals. In practice, the law is also very helpful in concluding investigations against drug criminals in Indonesia. However, the issue of drug abuse is no longer just a domestic issue; it is now a global issue that cannot be resolved solely with the help of current regulations. Professionals from law enforcement agencies are also crucial in combating drug abuse, and public awareness plays a significant role in helping people avoid drug abuse.<sup>2</sup>

The objectives of this research is to find out the judge's consideration against the criminal act of storing narcotics in class I for cannabis type; and to examine the forms of criminal responsibility in the narcotics crime based on a case study of district court No. 936/PID.SUS/2021/PN.SDA.

## LITERATURE REVIEW

Drug abuse is still widely spread in society, especially teenagers. There are many bad effects caused by drugs, such as damage the body, soul, their good names, and the Indonesian future itself. Therefore, the Indonesian government regulates the narcotics criminal offences in Articles 111-148 of Law No. 35/2009 on narcotics.<sup>3</sup> According to the explanation of the article, there are 9 crimes caused narcotics abuse, such following below:

1. The Criminal of Narcotics Production;
2. The Criminal of Selling Drugs;
3. The Criminal of Drugs Distribution;
4. The Criminal of Drugs Authorization;
5. The Criminal of Drug Abuse;
6. The Criminal caused of not report any drug addicts;
7. The Criminal of Drug Labels and Publications;
8. The Criminal of Speedy Justice of Narcotics Case in Court; and
9. The Criminal of Confiscation and Narcotics Destruction.

According to the Indonesian Law No. 22/1997 concerning of narcotics and illegal drugs, it stated that narcotic substances or drugs derived from plants or non-plants, both synthetic and semi-synthetic, which can cause a decrease or change in

<sup>2</sup> Thitos Briyan Pamungkas Sumanang and Amin Purnawan, "The Effectiveness Of Death Execution On Narcotics Crime As Law Enforcement," *Law Development Journal* 3, no. 2 (August 10, 2021): 441, <http://jurnal.unissula.ac.id/index.php/ldj/article/view/16205>.

<sup>3</sup> Aditya Hadmanto, "Kedudukan Narkotika Jenis Baru Dalam Alat Bukti UU Narkotika No.35 Tahun 2009," *Badamai Law Journal* 6, no. 1 (December 27, 2021): 195, <https://ppjp.ulm.ac.id/journal/index.php/blj/article/view/11781>.

consciousness, loss of feeling, reduce to eliminate pain and can lead to dependence. In general, narcotics have an addictive work effect, such following below<sup>4</sup>:

1. Anesthetize (decrease a person's level of consciousness);
2. Stimulating (increasing enthusiasm for activities) which is often called dopping;
3. Addiction (dependency/binding) to continue using it;
4. Generate delusions (hallucinations).

These substances can be classified into 2 types, these are (1) narcotics in the narrow meaning and (2) narcotics in the broad meaning. In a narrow meaning, all natural substances or ingredients, that is all medicinal ingredients such as opiates, cocaine and cannabis. In a broad meaning, all natural and synthetic (artificial) medicinal ingredients are derived from cocaine, cannabis, sedatives and stimulants.

Meanwhile, according to the Indonesian Law No. 5/1997 concerning of psychotropics, it stated that psychotropic is a substance or drug, both natural and synthetic, non-narcotics, which has psychoactive properties through a selective effect on the central nervous system which causes characteristic changes in mental activity and behavior.<sup>5</sup> In addition, based on Indonesian Law that psychotropics contain several active substances, such as (1) Tranquilizers (Bromazepam, Diazepam, Nitrazepam); (2) Sleeping pills (BK, BUM, MS and others); (3) Hallucinogenic Substances (LSD).

There are several types in Psychotropic such following below:

1. Psychotropic Class I

Psychotropics that can only be used for scientific purposes and not for therapy and have a very strong potential to cause dependence syndromes such as ecstasy and LSD (Lysergic Acid Diethylamide).

2. Psychotropic Class II

Psychotropics that are used in therapy or scientific development purposes and have a strong potential to cause dependence syndromes such as amphetamine, methylphenidate and ritalin.

3. Psychotropic Class III

These psychotropics are widely used in therapy and for the purpose of developing science and have a strong potential to cause dependence syndromes such as pentobarbital and flunitrazepam.

4. Psychotropic Class IV

Psychotropics which are efficacious for treatment and are very widely used in therapy or for other purposes such as the science of class IV psychotropics have dependencies such as Koplo pills (drugs containing the substance Trihexyphenidyl), BK pills, Dum and Nipam pills.<sup>6</sup>

<sup>4</sup> Fahmi Sasmita, *Narkoba, Naza Dan Napza*, 1st ed. (Yogyakarta: Sentra Edukasi Media, 2018).

<sup>5</sup> Ratna WP, *Aspek Pidana Penyalahgunaan Narkotika* (Yogyakarta: Anak Hebat Indonesia, 2018).

<sup>6</sup> Irwan Jasa Tarigan, *Narkotika Dan Penanggulangannya* (Yogyakarta: Deepublish, 2017).

### Addictive Substances

Addictive substance is substances or chemicals when entered into the human body, will affect the body, especially the central nervous system, causing changes in mental, emotional activity and behavior. If used continuously will be able to cause addiction. Therefore, it can be known as psychoactive substances included in this additive besides narcotics, psychotropics and alcohol are as follows<sup>7</sup>:

1. Liquor,
2. Solvent (thinner, gasoline, glue, etc.),
3. Nicotine, and
4. Caffeine.

### Negative Impacts of Drugs

1. Opioid, there are several negative impacts of this drug such as severe depression, nervous and restless apathy, sleeps a lot, excessively tired, lazy to move, convulsions and rapid heart rate, always feeling suspicious, overly excited, increased sense of self-esteem, talkatively but slurred, small pupils, pressure increased blood, cold sweats, nausea to vomiting, loss of appetite, and weight loss.
2. Cocaine, there are several negative impacts of this drug such as rapid heartbeat, restlessness, talkativeness, overexcitement, increased self-esteem, convulsions, dilated pupils, cold sweats, nausea to vomiting, easy fights, bleeding in the brain, blocked blood vessels, uncontrolled eye movements, and neck muscle stiffness.
3. Marijuana, there are several negative impacts of this drug such as puffy eyes, eye bags look swollen, red and watery, often daydreaming, impaired hearing, always laughing, sometimes irritable, not passionate, dehydrated, porous teeth, damaged brain nerves and eyes.
4. Ecstasy, there are several negative impacts of this drug such as energetic but glazed eyes and pale face, difficulty in sleeping, brain nerve damage, dehydration, liver disorders, bone and tooth loss, no appetite, and eye nerves are damaged.
5. Methamphetamine Drugs, there are several negative impacts of this drug such as energetic, paranoid, difficulty in sleeping, difficulty in thinking, brain nerve damage, and rapid heart rate.
6. Benzodiazepines, there are several negative impacts of this drug such as unsteady walk, reddish face, talkative but slurred, irritable, and disturbed concentration.

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<sup>7</sup> Irwan Jasa Tarigan, *Peran Badan Narkotika Nasional Dengan Organisasi Sosial Kemasyarakatan Dalam Penanganan Pelaku Penyalahgunaan Narkotika* (Yogyakarta: Deepublish, 2017).

### The Factors Causing Drugs Abusement

There are several factors caused drug abuse in adolescents, experts agree that in general there are three factors that influence the occurrence of drug abuse in adolescents, namely the drug factor itself, environmental factors, and individual factors. According to the results of the study Widjoro, it stated that drugs are a factor in the occurrence of drug abuse because their use creates certain effects or sensations so that users are encouraged to seek and enjoy these new sensations, as stated earlier, because drugs are addictive, that is, they cause addiction or dependency. The ease of obtaining drugs is suspected as a very important factor for the occurrence of drug abuse in adolescents.

Afiatin's research results also indicate the same thing, around 70% of teenagers abuse drugs because they are given friends.<sup>8</sup> In the beginning of use, they get drugs easily and the prices are still affordable for their pocket money. In order to obtain drugs, they only need to meet their friends who usually bring and sell them. In this regard, regarding predictions in the future that Indonesia will not only serve as a transit for drug trafficking, but will also become a target country for drug traffickers.

The self factor where a great curiosity to try new things, without realizing or thinking about the consequences in the future, this desire is fundamental to try out out of curiosity, the desire to have fun the desire to be accepted in a certain group or environment, and run from the problems faced, as well as boredom and bitterness in living life in influencing drug abuse for adolescents. The environment closest to adolescents is family and peer groups, family environmental factors, according to Palmer and Lindle (1996) and Hawkins, et al (1997) can act as risk factors as well as protective factors in drug abuse in adolescents. Risk factors mean conditions that can lead to drug abuse, while protective factors are conditions that can prevent drug abuse, namely: models of parents and siblings who have abused drugs, permissive parental attitudes towards drug use, lack of parental attention to their children, punishment of children who are too frequent and inconsistent or parents who are too authoritarian.

The Brook research indicated that there is a significant negative relationship between drug use in parents and children's adjustment, children with parents who abuse drugs have a poor adjustment. In addition, Siregar and Hawari stated that families with drug abuse problems are marked by their characteristics, such as the father does not want to be involve in family life, the mother is dominantly overprotective, the inconsistency between persuasion and envy, frequent conflicts, parents always demand the success of their children, thus encouraging children to run away their family problems by using the drugs. Families that rarely or never experience drug use problems are characterized by attachment to traditional values,

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<sup>8</sup> Dahlan, *Problematika Keadilan Dalam Penerapan Pidana Terhadap Penyalahgunaan Narkotika* (Yogyakarta: Deepublish, 2017).

strong family ties, there is a loving relationship between parent and child. It means that parental influence is stronger than peer influence.

According to the Indonesian Health Ministry, the family is the highest causal factor for a child to commit drug abuse, such as ineffective communication between children and parents; the relationship between father and mother is less harmonious; family environment is too permissive or too authoritarian; and parents or other family members have used drugs. These characteristics can be used as a protective factor for families in maintaining a conducive parent-child relationship. There are many positive impacts that can be felt by teenagers, such as they will be able to feel affection and bond strength with their families; obtain clear norms relating to the problem of drug abuse; teenagers become tougher to be able to resist the enticements of strangers so they don't get caught up in drug abuse cases. Otherwise, these characteristics can also boomerang on the relationship between parents and their children if they are not properly educated. The next factor that causes a lot of drug abuse is peer factors, the surrounding environment, and then biological and psychological factors for each child.

Actually, drug abusers are victims of promiscuity. Some health experts stated that drug abusers should not receive severe criminal sanctions such as imprisonment. They should get mental treatment such as rehabilitation because initially they used these illegal drugs due to many factors, all of which caused their mental disorders to be disrupted and they did not have other media as a form of emotional impingement.<sup>9</sup> Therefore, it required the equality between criminal sanctions and action sanctions against drug abusers. Because this is a basic form of nature or the basic idea of the double track system concept.

The double track system is a two-track system regarding sanctions in criminal law, these are the type of criminal sanction on the one hand and the type of action sanction on the other. Although at the practical level the difference between criminal sanctions and action sanctions is often rather vague, at the level of basic ideas the two have fundamental differences. Both come from different basic ideas. Criminal sanctions originate from the basic idea of sentencing, while action sanctions depart from the basic idea of the usefulness of the sentencing. On the other hand, criminal sanctions are actually reactive to an act, while action sanctions are more anticipatory towards the act perpetrator.

The Indonesian government has established appropriate punishment for perpetrators of drug abuse, both self-use and distributors.

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<sup>9</sup> Farid Iskandar, "Pelaksanaan Pertanggungjawaban Pidana Pengedar Terhadap Korban Penyalahgunaan Narkotika," *Jurnal Penegakan Hukum dan Keadilan* 2, no. 2 (November 25, 2021): 96–116, <https://journal.umy.ac.id/index.php/jphk/article/view/9989>.



## RESEARCH METHODOLOGY

This type of research used juridical normative which means that in this study uses various media, such as norms and law regulations regarding narcotics and illegal drugs crimes. In addition, the laws and regulations are analyzed and adapted to the limitation of the related topic of the research. Meanwhile, the approach in this research used the statute approach which is an approach by identifying laws and regulations related to drug abuse and illegal drugs. In addition, this research has two legal source materials, such as (1) primary legal source material, binding legal material in the form of statutory regulations. These are primary legal source material of this research, such as Indonesian law No. 35/2009 concerning narcotics, Indonesian law No. 5/1997 concerning psychotropics, Indonesian law No. 8/1981 concerning criminal procedural law, and Indonesian law No. 11/2008 concerning electronic information and transactions; (2) secondary legal source material, legal materials that explain primary legal materials in the form of literature and legal materials that support the discussion of issues originating from literature studies, such as some books, articles, journals, web page, and other media.

## RESULT AND DISCUSSION

### Judge Consideration

There are several basis of legal protection for narcotics abuse defendants such following below<sup>10</sup>:

1. The defendant was polite, honest and straightforward in giving explanation during the session;
2. The defendant admitted his guilt and promised not to repeat his actions;
3. The defendant has never been involved in any legal case;
4. The net weight of evidence containing white crystals or methamphetamine is only 0.091 grams;
5. The defendant is still underage then it is hoped that he/she can correct his/her mistakes in the future.

In consideration, from the aggravating and mitigating circumstances and connected with the purpose of sentencing the defendant himself, it was not intended as retaliation for the defendant's actions, but aimed at making the defendant aware of all the mistakes he had made, the sentence imposed on the defendant as stated in the verdict was deemed appropriate. and fair according to the court.

In consideration, in this case the accused has been subject to lawful arrest and detention, then in accordance with Article 22 paragraph (4) of the Criminal Procedure Code, the said period of arrest and detention must be fully deducted from

<sup>10</sup> Montana Maruli Pakpahan, Erwin Owan Hermansyah, and Lukman Hakim, "Penerapan Status Pengguna Pada Tindak Pidana Narkotika Dalam Prespektif Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika," *Jurnal Hukum Sasana* 7, no. 2 (December 9, 2021): 203–216, <http://ejurnal.ubharajaya.ac.id/index.php/SASANA/article/view/725>.



the sentence imposed and because the accused was detained and the detention of the accused was based on sufficient reasons, it is required to determine that the accused remains in custody; with the consideration, that the evidence submitted to the trial in this case will be determined according to the law as stated in the verdict from the court.

In consideration, that because the defendant was found guilty and convicted, in order to comply with Article 222 paragraph (1) of the Criminal Procedure Code, the defendant must also be burdened with paying court costs, the amount of which will be determined in this decision. Article 114 paragraph (1) of Indonesian Law No. 35/2009, Article 193 of the Criminal Procedure Code and Article 197 of the Criminal Procedure Code and other provisions related to this case.

### **The Verdict**

Based on the principle of balance, criminal responsibility is based on the principle of legality and the principle of culpability (humanity). Legally the principle of legality is contained in Article 1 paragraph (1) of the Criminal Code which states: "no act can be punished, except for the strength of the criminal rules in existing legislation, before the act is committed", while the principle of error includes all actions committed intentionally or done due to negligence criminal responsibility based on mistakes in principle can be punished if it has been proven wrong in committing a crime. With these considerations, it gives authority to the judge to determine the types and amount of punishment. Based on this principle of error, criminal responsibility requires an error in the form of intention or negligence to impose a sentence against the abuse of narcotics class I for oneself. As for 3 (three) elements of criminal responsibility according to Roeslan Saleh, such following below:

1. There is the ability to be responsible for the contents of the maker (an element of being able to take responsibility);
2. The inner relationship between the contents of the creator and his actions which are intentional or negligent are called forms of error (error elements);
3. No excuses for mistakes or excuses forgiving.

Referring to the opinion above regarding this case, the first element is the element of being able to take responsibility, in the case study of the decision (study of the district court decision No. 936/PID.SUS/2021/PN.SDA. Abuse of narcotics, criminal abuse of narcotics class I, Achmad Luthfi Ramadhani Bin Juadi is 21 years old where according to Article 45 of the Criminal Code, he can be held accountable for his actions before the law. The second element is determining the form of the mistake committed by the defendant whether it was intentional or due to negligence or negligence. From the chronology of events above it can be concluded that the defendant Achmad Luthfi Ramadhani Bin Juadi deliberately became an intermediary in the sale and purchase of class I narcotics, not plants, against the law

in the series of actions committed by the defendant. The third element is that there is no reason for abolishing the crime or excuses. Excuses for forgiving are reasons that eliminate errors in the content of the perpetrators of crimes in criminal law. In cases of drug abuse If class I is the type of narcotics committed by the defendant Achmad Luthfi Ramadhani Bin Juadi, no reason can be found that can erase the guilt, namely deliberately becoming an intermediary in the sale and purchase of narcotics class I, not plants, against the law.

## CONCLUSION

There are two important things which described the problem solving of this case, these are (1) criminal responsibility in narcotics crimes fulfills the elements of criminal responsibility, such as being able to take responsibility, the existence of intentional mistakes and no leniency for the accused in order to held accountable; (2) the judge's legal considerations in deciding the decision on the criminal case No. 936/PID.SUS/2021/PN.SDA with the existence of valid evidence and the judge is sure of its evidence.

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