



THE 3rd INTERNATIONAL CONFERENCE AND CALL FOR PAPER

"Legal Development in Various Countries"



IMAM AS SYAFEI BUILDING
 Faculty of Law, Sultan Agung Islamic University
 Jalan Raya Kaligawe, KM. 4 Semarang, Indonesia

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The 3rd PROCEEDING

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“LEGAL DEVELOPMENT IN VARIOUS COUNTRIES”

This conference tries to reviews different theories of legal development in order to highlight their similarities and differences. And focusing on the development of law in both developed and developing countries and its role in shaping a good future.

KEYNOTE SPEAKER:
Prof. Henning Glaser
Thammasat University, Thailand

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Organized by : Faculty of Law Sultan Agung Islamic University (UNISSULA) Semarang-Indonesia

WORLD ISLAMIC UNIVERSITY
UNISSULA
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5
September
2017

FACULTY OF LAW
Sultan Agung Islamic University

Organized by : **Faculty of Law UNISSULA**
Semarang-Indonesia

This Conference And Call Paper was held by the Faculty of Law, Sultan Agung Islamic University (UNISSULA) Semarang, on:

Day: Tuesday

Date : September 5th 2017

Time : 08:00 - 15:00 pm

Place : Imam AsSyafei Building 3rd Floor

Faculty of Law, Sultan Agung Islamic University, Semarang, Indonesia

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AND CALL FOR PAPER
“LEGAL DEVELOPMENT IN VARIOUS COUNTRIES”**

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PREFACE

Assalamu'alaikum, Wr. Wb

First of all, let's say Thanks to Allah, who has been giving us guidance, happiness, healthy, and mercy, so we can finish this conference proceeding without any obstacles. Praise and salutation upon our prophet Muhammad saw the last messenger, the best figure of this universe; the person who was able to save us from Jahiliyah era.

We would like to extend our thanks to the invited speakers: **Prof. Henning Glaser from Thammasat University, Prof. Shimada Yuzuru from Nagoya University, Hilaire Tegan, Ph.D from Sorbone University, Prof. Dr. I Gusti Ayu Ketut Rachmi Handayani, MM from SebelasMaret University, Dr. Zaharudin from Universiti Utara Malaysia, and Dr. Anis Mashdurohatun, S.H., M.Hum from Sultan Agung Islamic University.**

This is our third International conference and call for paper held by Faculty of Law, Sultan Agung Islamic University. This annual conference tries to gain any information and studies done by academician and practitioner to be discussed as guidelines to exchange and discuss views on the most important recent on Legal Development happens in both developed and developing countries and its role in shaping a good future, and to discuss the challenges and practical aspects in integrating competition law enforcement and guidelines to develop legal state in accordance with the diversity of all countries around the world. We hope this conference brings benefit for both participants and our faculty.

We are pleased to have your critique, suggestion and correction in order to make us better. Finally, we do thanks to all who helped this conference. May Allah guide us to always develop useful knowledge for human being.

See you in our fourth International and call for paper next year.

Wassalamualaikum, Wr. Wb

Semarang, September 5th 2017

Chairman of the Committee,



Dr. Anis Mashdurohatun, S.H., M.Hum
NIDN : 06-02105-7002

GREETING FROM THE DEAN OF FACULTY OF LAW

As-salamu'alaikum Wr. Wb.

Thank to Allah SWT is an absolute act that we must say after conducting the International Conference and Call for Paper by theme: “**Legal Development in Various Countries**” which is held by Faculty of Law, Sultan Agung Islamic University (UNISSULA) Semarang, on September 5th 2017.

This conference tries to reviews different theories of legal development in order to highlight their similarities and differences. In the end, as in contract theories, no monist view of legal development possesses the explanatory power needed to understand how law has come to be and where it may take us in the future. What we do have is a foundation built on at least two millennia of legal history. The intellectual starting point for this project is Nathan Isaacs' unfinished work on a cycle theory of legal development. His view of legal development takes issue with Henry Sumner Maine's thesis that development in advanced legal systems is progressive in nature. And, more importantly for the current undertaking, that this progression is linear in nature. Instead, Isaacs' review of thousands of years of Jewish legal development indicated that legal development perpetually progressed in cycles.


Therefore, to discuss more about legal development or law reform, Faculty of Law, Sultan Agung Islamic University is confidence to conduct a conference by the theme “**Legal Development in Various Countries**” focusing on the development of law in both developed and developing countries and its role in shaping a good future.

Finally, we thank to the presenters, article senders, and comittee who have contributed in this event, so that this international seminar ran well.

Wassalamu'alaikum Wr. Wb.

Semarang, September 5th 2017

Dean,



Prof. Dr. Gunarto, SH, SE, Akt, M.Hum
NIDN.062004670

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**CRIMINAL ACCIDENT OF NARCOTICS, APPLICATION OF LAW NUMBER 35
YEAR 2009 AND JUDICIAL DECISIONS IN THE COURT
COUNTRY KISARAN**

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ABSTRAK

Narcotics are our common enemy, because narcotics can damage the joints of the nation's life. Moreover, if the nation is falling for such illicit goods, then this country must be affected by the decline. Narcotics are now at an alarming point, illicit drug trafficking is now rampant everywhere. Whether in town or up into the countryside, which is not immediately overcome then this country will become a country colonized by narcotics.

The type of research in this Journal is normative legal research. The study of normative law, the elaboration of legal principles such as research on the legal principles that live in society.

How to apply the law to narcotics and what the judges consider in the decision in the Kisaran District Court.

The setting up of positive law in Indonesia about narcotics continues to evolve in an era, starting from Law no. 8 of 1976 on the Ratification of the Narcotics Single Convention until the latest Supreme Court Circular No. 7 of 2009 on Rehabilitation for Narcotics Addicts.

Keywords: criminal offense, Narcotics Abuse Victim, Judge verdict.

A. INTRODUCTION

Drug abuse is increasingly prevalent in society. Drugs also do not regard the status, who and from which faction, could be a user and even a dealer. According to Asahan District Police Department data - North Sumatera, during 2015 until July 2017, there were 550 cases of Drugs with a total of 755 suspects arrested.

This number is somewhat less than the previous year which reached 181 cases said KAURMINTU SATNARKOBA Asahan Police, IPTU. S. Siahaan.¹

IPTU. S. Siahaan admitted that even members of the police force in 2015 - 2017 have been detained as many as 1 (one) person because of the case of users / users of narcotics type shabu. He said:

"Drugs do not distinguish age, old-young alike, including members of the police. Currently we are holding one (1) of our members for bringing has been using the type of methamphetamine drug. So we should be able to protect ourselves early and declare war on drugs ". And he said that Drugs are the biggest case in Asahan even in Indonesia, defeating other cases. And there is more about juvenile delinquency using goat glue and comic cough mixed with autan oil mosquito, but this can not be punished because there is no / no law regulating it, but we as police apparatus can only appeal and suggests that they do not engage in or disuse and use the item by misusing its real usefulness.

Since January 2015 to 25 July 2017 Drugs Type Savings are captured tens of kilos, hundreds of kilos and tons. Types of ecstasy, hundreds of thousands to millions of grains, cannabis hundreds of kilos to tons. Attempt, thwart smuggling 1

¹. Interview with Kaurmintu Satnarkoba Asahan Police, IPTU. S. Siahaan. dated August 15, 2017. At 10:15 pm.

ton sabu in anyer, banten by joint team of Police Drug Detective Directorate of Metro Jaya and Depok Polresta last week became its own history in eradicating Drugs in Indonesia.²

The government issued the most recent regulation is the Law of Republik Indonesia Number 35 Year 2009. Previous law regulation that regulate the narcotics is Law Republik Indonesia Number 22 Year 1997 about Narcotics and Law Number 5 Year Year 1997 About Psikotropika.³ Being the obligation of the judge to bring equality before the law.⁴ Law enforcement as a process is essentially an application of discretion which involves making decisions not strictly governed by the rule of law, but having elements personal judgment (Wayne La Favre 1964) by quoting Roscoe Pond, then La Favre states that the discretion is essentially between law and morals (ethics in the strict sense) .⁵

On March 17, 2009 the Supreme Court issued a circular number: 07 of 2009 on placing drug users into therapeutic and rehabilitation parlors. In the circular of the Supreme Court mentioned in paragraph 4 that :

In the event that a judge handed down a criminal offense in the form of an order for a legal action in the form of rehabilitation of the Defendant, the Assembly shall designate explicitly and clearly the location of the nearest rehabilitation, in its ruling the places of rehabilitation are:

². Hidayat Banjar, Indonesia dikepung Narkoba, Daily Waspada, Friday, August 11, 2017

³. Siswanto Sunarso, Penegakan Hukum Psikotropika Dalam Kajian Sosiologi Hukum, PT. Raja Grafindo Persada, Jakarta, 2004, Page 1

⁴. Bambang Sutiyo, Metode Penemuan Hukum Upaya Mewujudkan Hukum Yang Pasti dan Berkeadilan, Yogyakarta, UII Press, 2007.

⁵. Andy Hamzah, dkk, Delik-Delik Terhadap Penyelenggaraan Peradilan (Conterm Of Court), Sinar Grafika, Jakarta, 1998, Page 5

- a) Technical Implementation Unit of T & R BNN Lido Bogor.
- b) Hospitals Drug Dependence, Cibubur Jakarta and all over Indonesia (health department of the republic of indonesia).
- c) Rehabilitation Center of social Department Republic of Indonesia and UPTD; Mental Hospital throughout Indonesia; or
- d) Rehabilitation center places hosted by community accredited by the Ministry of Health or Ministry of Social Affairs (at their own expense)

Surely the judge's decision based on consideration of evidence. In paragraph 3 point 2 of the circular of the Supreme Court namely:

At the time of being caught, one piece of evidence was found. Example:

No	Type of Drug	Usage	Amount / gram
1	Heroin/putauw	Maksimum	0,15 gram
2	Kokain	Maksimum	0, 15 gram
3	Morphin	Maksimum	0, 15 gram
4	Cannabis	Maksimum 1 linting cigarette	0,005 gram
5	Ekstacy	Maksimum	1 butir / tablet
6	Shabu	Maksimum	0,25 gram

And others included in narcotics Group I to III and psychotropic Group I s / d IV.

Seeing the above, it is clear there is a change in the implementation of narcotics crime in Indonesia. Where the rights of addicts more attention, given the addict is actually a victim of illicit drug trafficking. Naturally

addicts are placed in Rehabilitation homes. Because if viewed from the aspect of health, addiction is a disease that is duly treated.

Article 47 of Law Number 22 Year 1997 concerning narcotics states :

(1) Judge Checking Narcotics addicts may:

- a. Decides to order the concerned person to undergo treatment and / or treatment, if the Narcotics addict is found guilty of committing a Narcotics crime or

b. Determine to order the concerned person to undergo treatment and / or treatment, if the Narcotics addict is not proven guilty of committing Narcotics crime.

(2) the period of treatment and / or treatment for Narcotics addicts as referred to in paragraph (1) letter a shall be calculated as the duration of the sentence.

The judge must pay attention to the matters under consideration.

Article 127 Paragraph (2) :

"In deciding the case as referred to in paragraph (1), the judge shall pay attention as referred to in Article 54, Article 55, and Article 103".

Article 54 is mentioned:

Narcotics addicts and Narcotics Abuse Victims are required to undergo medical rehabilitation and social rehabilitation.

Article 55 mentioned:

(1) A parent or guardian of an addicted Narcotics addict is required report to public health centers, hospitals, and / or social rehabilitation and rehabilitation institutions designated by the Government for treatment and / or treatment through medical rehabilitation and social rehabilitation.

(2) Adequate Narcotics addict shall be reported or reported by his / her family to community health centers, hospitals and / or social rehabilitation and rehabilitation institutions designated by the Government.

(3) Provisions concerning the implementation of compulsory report as referred to in paragraph (1) and paragraph (2) shall be regulated by Government Regulation.

Article 103 mentioned:

(1) Judge Checking Narcotics addicts may:

a. Decides to order the concerned person to undergo treatment and / or treatment.

b. Determine to order the concerned person to undergo treatment and / or treatment, if the Narcotics addict is not proven guilty of committing Narcotics crime.

(2) the period of treatment and / or treatment for addicts is taken into account as the duration of the sentence. On 7 April 2010 the Supreme Court issued Circular No. 04 of 2010 on the placement of abuse, abuse victims and narcotics addicts into medical rehabilitation and social rehabilitation institutions. Republic Law

Indonesia Number 35 Year 2009 on Narcotics can be imposed on the classification of criminal acts that is :

Defendant at the time of arrest by Police investigator and BNN investigator under arrest of hand;

a. At the time of hand capture in accordance with point a above found 1 (one) day of usage evidence with details as follows:

No	Type of Drugs	Usage	Amount / gram
1	metamphetamin (sabu)	Maksimum	1 gram
2	MDMA (ekstasi)	Maksimum	2,4gram=8 butir
3	Heroin	Maksimum	1,8 gram
4	Kokain	Maksimum	1,8 gram
5	Marijuana	Maksimum	5 gram
6	Leaf Koka	Maksimum	5 gram
7	Meskalin	Maksimum	5 gram
8	Psilosybin	Maksimum	3 gram
9	LSD (d-lysergic acid diethylamide)	Maksimum	2 gram
10	PCP (phencyclidine)	Maksimum	3 gram
11	Fentanil Group	Maksimum	1 gram
12	Metadon	Maksimum	0,5 gram
13	Morfin	Maksimum	1,8 gram
14	Petidin	Maksimum	0,96 gram

15	Kodein	Maksimum	72 gram
14	Bufrenorfin	Maksimum	32 mg

BIBLIOGRAPHY

Books:

Hidayat Banjar, Indonesia dikepung Narkoba, Daily Waspada, Friday, August 11, 2017

Siswanto Sunarso, Penegakan Hukum Psikotropika Dalam Kajian Sosiologi Hukum, PT. Raja Grafindo Persada, Jakarta, 2004.

Bambang Sutiyoso, Metode Penemuan Hukum Upaya Mewujudkan Hukum Yang Pasti dan Berkeadilan, Yogyakarta, UII Press, 2007.

Andy Hamzah, dkk, Delik-Delik Terhadap Penyelenggaraan Peradilan (Conterm Of Court), Sinar Grafika, Jakarta, 1998.

Law :

Republic Indonesia law, Number 35 of 2009.

Interview :

Interview with Kaurmintu Satnarkoba Asahan Police, IPTU. S. Siahaan. dated August 15, 2017. At 10:15 pm.