

## **Legal Responsibility For Perpetrators of Criminal Acts Without The Right To Sell Narcotics (Study of Decision No. 416/Pid.Sus/2024/Pn.Btm)**

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**Abstract.** *The purpose of this research is to analyze the construction of criminal acts without the right to sell narcotics in the concept of legal certainty, to analyze legal responsibility for perpetrators of criminal acts without the right to sell narcotics (Study of Decision No. 416/Pid.Sus/2024/PN.BTM The approach method used in this study is the normative legal approach method. This method is used considering that the problems to be discussed are related to the construction of criminal acts without the right to sell narcotics in the concept of legal certainty, analyzing legal responsibility for perpetrators of criminal acts without the right to sell narcotics (Decision Study No. 416 / Pid.Sus / 2024 / PN.BTM The results of the study indicate that the crime of selling narcotics without the right in the concept of legal certainty is regulated in Article 114 of Law Number 35 of 2009 concerning Narcotics for class I narcotics. The concept of legal certainty is expressly regulated in the article regarding the provisions and sanctions for criminal liability for a person acting as a narcotics intermediary in the decision number 416 / Pid.Sus / 2024 / PN.BTM in the eyes of the judge, namely the defendant with the initials P by carrying out the sentence imposed by the judge in the form of imprisonment for 9 (nine) years and 6 (six) months and a fine of Rp. 2,125,000,000 (two billion one hundred and twenty-five million rupiah with the provision that if the fine is not paid, it will be replaced with imprisonment for 3 (three) months, and the defendant did not file any legal action at all Based on the research results, it shows that legal certainty in the Narcotics Law is in accordance with legal certainty.*

**Keywords:** *Criminal Acts; Narcotics; Responsibility.*

### **1. Introduction**

The 1945 Constitution firmly states that the Republic of Indonesia is a State of Law (rechtstaat), not a State of power. This means that the law belongs to all Indonesian citizens, not to a handful of people, let alone the rulers. Such a situation also means that the supremacy of law must be upheld fairly and correctly, accountable, transparent, non-discriminatory, and not arbitrary and every citizen is obliged to "uphold the law" in everyday

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reality, citizens who are negligent/intentionally do not carry out their obligations so as to harm other people, it is said that the citizen "violates the law" because the obligation has been determined by law.<sup>1</sup>

Starting from the idea that humans are wolves to other humans (*Homo homini lupus*). Always self-centered and not others<sup>1</sup> so it is not impossible for humans to make mistakes, whether intentionally or unintentionally, so that the act harms others and often violates the law, the mistake can be a criminal act (*delict*).

One of the crimes committed by the community is the crime of Narcotics. Narcotics are substances or drugs derived from plants or non-plants, both synthetic and semi-synthetic which can cause a decrease or change in consciousness, loss of feeling, reduce to eliminate pain and can cause dependence, psychotropics on the one hand are drugs or materials that are very useful in the field of treatment or health services and the development of science on the one hand can be very detrimental if used without strict and careful control and supervision.<sup>2</sup>

The development of narcotics use today is increasing and not for the purpose of medical or scientific interests, but aims to obtain very large profits. The threat and danger of narcotics development to public health can occur as a side effect of continuous and unsupervised narcotics use. If treatment and prevention are not carried out immediately, it will cause a dependency effect, both physical and psychological dependence that is very strong on its use. The negative consequences above are the joint responsibility of all countries to overcome them. This responsibility has become an integral part of modern society, it can even be said that no country in the world wants to protect criminal acts in general and in particular, including narcotics crimes.<sup>3</sup>

The increasing problem of drug abuse is an urgent or important and complex matter. Drug abuse does not describe a simple and easy-to-solve problem. Drug abuse seems to be increasingly rampant, especially in big cities which are the places where the drug epidemic is spreading which seems to be unstoppable. Lately, drug abuse has not only become an obstacle in big cities but has begun to infiltrate villages.

The problem of drug abuse in Indonesia is currently felt to be critical and international in nature, carried out with sophisticated *modus operandi* and technology. As an archipelagic country with a strategic location, Indonesia has participated in overcoming the crime of drug abuse, namely by enacting Law Number 35 of 2009 concerning Narcotics. This law is a new law that replaces the old laws, namely Law Number 22 of 1997 and Law Number 35 of 2009 concerning Narcotics.<sup>4</sup>

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<sup>1</sup>Topo Santoso and Eva Achani Zulfa, 2011, *Criminology*, Tenth Edition, Raja Grafindo Persada, page 3

<sup>2</sup>Siswanto Sunarso, 2010. *Law Enforcement of Psychotropic Drugs in the Study of Legal Sociology*, Third Edition, PT. Rajagrafindo Persada, Jakarta, p. 5.

<sup>3</sup>Mahendra Pangestu, *Criminal Liability of Perpetrators of Narcotics Abuse Crime of Gorilla Tobacco Type*, Faculty of Law, Pancasakti University, Tegal 2020, p. 1 <http://repository.upstegal.ac.id/778/1/SKRIPSI.pdf>, accessed on 7/11/2024. At 19.00 WIB.

<sup>4</sup>Sanna Friani Manalu, Arta Rumiris Sipahutar, Sampe Raja Sinaga and Mesias JP Sagala, *Legal Analysis of Abuse of Narcotics Types of Crystal Meth and Ecstasy Pills Reviewed from a Criminal Law Perspective in Decision Number: 473/Pid.Sus/2015/Pt.Mdn, RECTUM JURNAL, Volume I, Number 2, July 2019 p 117,*

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Based on Law Number 35 of 2009, every perpetrator of a crime without the right to sell narcotics can be subject to criminal sanctions, which means that narcotics sellers can be called perpetrators of narcotics crimes. It must be realized that the problem of drug abuse is a very complex problem, therefore efforts and support from all parties are needed in order to achieve the expected goals, because the implementation of the law is very dependent on the participation of all parties, both the government, security forces, families, the environment, because it cannot disappear by itself. The development of drug abuse is increasing and the motives of abuse and perpetrators vary, because not a few of those who do it are from among children and teenagers who are the next generation of the nation.

Efforts to eradicate international narcotics crimes are carried out by routinely conducting raids or operations on dangerous substances such as liquor and drugs. Criminal penalties should be more focused on drug dealers because the presence of dealers causes drug abuse which then gives birth to drug addicts, because in any case, the eradication of narcotics must be seen from the central point, the difficulty of law enforcement officers in tracking drug distribution is because the crime is not carried out individually but involves many people who work together and even form an organized syndicate with a wide network that works neatly and very secretly both at the national and international levels.

The increase in drug crimes is generally caused by two things, namely: First, for producers and dealers it promises huge profits. This is inseparable from the economic conditions of the community which are increasingly difficult to earn a living so that they choose the path of committing crimes as drug dealers which in reality promise large wages or profits in a short time. Second, for drug users it promises peace, comfort, and tranquility. This is due to the lack of knowledge of users about the impacts that will be caused by continuous drug use and over a fairly long period of time. Given the dangers that can destroy the joints of the life of the Indonesian nation, the existence of drug abuse must be faced, eradicated and fought together. The chronology of the Decision No. 416/Pid.Sus/2024/PN.BTM is as follows:

starting on Friday, March 29, 2024 at around 19.30 WIB, Witness Wan Rahmat K together with the Team from the Barelang Police Narcotics Investigation Unit received information from the public saying that around the Mentarau Tax Kiosk, Patam Lestari Subdistrict, Sekupang District, Batam City, narcotics transactions often occur, then at around 22.00 WIB, Witness Wan Rahmat K together with the Team conducted an investigation and suspected 2 men who were in front of the Mentarau Tax Kiosk, Patam Lestari Subdistrict, Sekupang District, Batam City, then the witness together with the Team arrested and searched the defendant PAISAL BIN ALI AMARAN and Witness Haprino Lubis Bin Samual, evidence was found in the form of 1 package containing crystal methamphetamine from the pants pocket of the Mentarau Tax Kiosk, Patam Lestari Subdistrict, Sekupang District. Sekupang, Batam City, then Witness Wan Rahmat K together with the Team carried out development by conducting a search at Ruli's house in Kampung Baru Indosat Sekupang which was previously the residence of the defendant PAISAL BIN ALI AMARAN and found evidence in the form of 1 (one) jar containing 5 packages of crystal methamphetamine in the front room in Ruli's house, then the defendant PAISAL BIN ALI AMARAN and the evidence were taken to the Police Station for further processing.

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<https://jurnal.darmaagung.ac.id/index.php/jurnalrectum/article/download/224/237/>. Accessed on 10/31/2024. At 20.00 WIB

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That the evidence of crystal methamphetamine was obtained by the defendant PAISAL BIN ALI AMARAN on Thursday, March 28, 2024 at around 20.00 WIB from an old man (DPO) on the side of the road in front of Awal Bros Hospital, Batam City, which the defendant PAISAL BIN ALI AMARAN then took and stored at Ruli's house in Kampung Baru Indosat Sekupang;

And on Friday, March 29, 2024, at around 15.30 WIB, the defendant PAISAL BIN ALI AMARAN together with Witness Haprino Lubis Bin Samual broke 1 package of crystal methamphetamine into 6 (six) packages, then the defendant PAISAL BIN ALI AMARAN handed over 1 package of crystal methamphetamine that had been broken up to Witness Haprino Lubis Bin Samual, which was then stored by Witness Haprino Lubis Bin Samual in the pocket of the pants worn by Witness Haprino Lubis Bin Samual;

That based on the attachment to the Minutes of Weighing Number: 78/10221/2024 dated March 30, 2024 signed by SURATIN, S.PD.I as the officer who weighed 1 package containing Crystal suspected of being methamphetamine with a net weight of 0.91 grams, and That based on the attachment to the Minutes of Weighing Number: 79/10221/2024 dated March 30, 2024 signed by SURATIN, S.PD.I as the officer who weighed 5 packages containing Crystal suspected of being methamphetamine with a total net weight of 42.36 grams;

That based on Test Report Number: LHU.085.K.05.16.24.0087 dated April 03, 2024 signed by Dyah Novi Hapsari, S. Farm., Apt from the test results on clear crystal powder with the conclusion that the sample was positive for containing methamphetamine which is included in the type of narcotics class 1 serial number 61 in accordance with the Minister of Health Regulation No. 30 of 2023 concerning Changes to the Classification of Narcotics and Law No. 35 of 2009 concerning Narcotics.---

The cases mentioned above and other cases show that both drug dealers and their kingpins have been caught and even given heavy sanctions, but in reality other perpetrators do not care and tend to expand their area of operation.<sup>5</sup> therefore criminal liability related to drug abuse is very necessary in enforcing criminal law in Indonesia, this is because narcotics have a very bad effect on human health, namely it can damage the physical and mental. The dangers and consequences of drug abuse can be personal dangers for the user and can also be social dangers to society or the environment.<sup>6</sup> Efforts to combat drug trafficking must receive serious attention and be implemented so that this drug problem does not continue to grow in society as a bad epidemic for the development of the country. This legal problem concerns the role of law enforcement officers, among law enforcement officers who have an important role and authority over the investigation and investigation of drug crime cases, including the Police through the Police Narcotics Investigation Unit at the Resort Police level as regulated in Article 47 of the Regulation of the Chief of the Republic of Indonesia Police Number 23 of 2010 Concerning Organizational Structure and Work Procedures at the Resort Police and Sector Police Levels. Its existence is very important in the midst of society as a state servant who balances and protects life in society, who is expected to be able to enforce the law and efforts to combat drug crimes.

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<sup>5</sup>Indah Lestari and Sri Endah Wahyuningsih, 2017 "Criminal Law Enforcement Against Drug Users in Central Java Regional Police", Khaira Ummah Law Journal, Vol. 12. No. 3 September p.60. <http://jurnal.unissula.ac.id/index.php/jhku/article/view/1889>, accessed on date 7/11/2024. 07.00 WIB

<sup>6</sup>Moh, Taufik Makarro, Suhasril, H.Moh.Zakky, 2003, Narcotics Crimes, Ghalia Indonesia Jakarta p 49

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One of the efforts in overcoming narcotics crimes that can be carried out by the Majalengka Police Narcotics Investigation Unit is to use undercover methods in carrying out eradication, as explained in Article 6 of the Regulation of the Chief of the Republic of Indonesia Police Number 06 of 2019 concerning Criminal Investigation Management. Specifically for drug trafficking cases, undercover techniques can be used as prospective buyers (undercover buy), undercover to be able to involve oneself in the distribution of drugs to certain places (controlled delivery), undercover accompanied by action and eradication (raid planning execution). Crime prevention against narcotics crimes has been widely carried out by the police through the Narcotics Investigation Unit which has the task and function of being an investigator and investigator who handles drug crimes, thus law enforcement carried out by the Majalengka Police Narcotics Investigation Unit is expected to be a preventive factor against the spread of illicit trade and distribution of narcotics.<sup>7</sup>

Narcotics and illegal drugs crimes today have become transnational in nature, carried out with high modus operandi and sophisticated technology, so that drug producers continue to explore new types of drugs in order to evade the law. Law enforcement officers, especially the police through the Narcotics Investigation Unit, are expected to be able to prevent and overcome these drug crimes in order to improve the morality and quality of human resources in Indonesia, especially for the next generation of the nation.

Based on the explanation above, the author is interested in conducting research which is stated in the form of a thesis entitled LEGAL RESPONSIBILITY FOR PERPETRATORS OF CRIMINAL ACTS WITHOUT THE RIGHT TO SELL NARCOTICS (STUDY OF DECISION NO. 416/Pid.Sus/2024/PN.BTM).

## **2. Research Methods**

MethodThe approach used by the author in this study is a normative legal approach. The normative legal approach is an approach that is carried out based on the main legal material by examining theories, concepts, legal principles and laws and regulations related to this study. This approach is also known as a literature approach, namely by studying books, laws and regulations and other documents related to this study.<sup>8</sup>

## **3. Results and Discussion**

### **3.1. Construction of Criminal Acts Without Rights to Sell Narcotics in the Concept of Legal Certainty**

Construction can be interpreted as the arrangement and relationship of words in a sentence or group of words. The meaning of a word is determined by the construction in a sentence or group of words. According to Sarwiji, what is meant by construction meaning is the meaning contained in linguistic construction. So, construction meaning can be interpreted as the meaning related to the sentence or group of words contained in a word in linguistic studies. Construction can also be defined as the arrangement (model, layout) of a building (bridge, house, and so on).

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<sup>7</sup>OC Kaligis & Associates, 2002, Drugs and Justice in Indonesia, Criminal Law Reform Through Legislation and Justice, Alumni, Bandung, p. 260

<sup>8</sup>Soerjono Soekanto, Introduction to Research ...Op.Cit. p. 43



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The word construction is in fact a concept that is quite difficult to understand and agree on, the word construction has various interpretations, cannot be defined singly, and is very dependent on its context. Several definitions of construction based on its context need to be distinguished on the basis of process, building, activity, language and planning.

Legal discovery is also known as the argumentation method or better known as legal construction, this method is used when faced with a situation of legal vacuum (*rechts vacuum*). Based on the principle of *ius curia novit* (judges may not reject a case to be resolved on the grounds that the law does not exist or has not regulated it) then this legal construction method is very important to ensure justice.

The word construction is actually a concept that is quite difficult to understand, the word construction has various interpretations, cannot be defined singly, and is very dependent on the context. Several definitions of construction based on their context need to be distinguished on the basis of: process, building, activity, language and planning, so that the meaning of the definition of construction in the context of its relationship to this research has the meaning of a form, procedure or more broadly the patterns of relationships that exist in a system that forms a work process in this case is the process of giving sanctions to victims/abusers of narcotics.

Based on the explanation above, the term courier in Law Number 35 of 2009 concerning narcotics, explicitly does not regulate couriers. The term courier itself can refer to someone who is tasked with delivering a package. So in this case it can be concluded that a courier in the narcotics trade system is someone who is entrusted with narcotics to be given to someone else or simply referred to as an intermediary. Thus, if referring to the definition above that a courier in the narcotics trade system is someone who becomes an intermediary for narcotics trade, then this violates the provisions of Law Number 35 of 2009 concerning Narcotics. Thus, a narcotics intermediary class I in terms of the construction of a criminal act without the right to sell narcotics can be charged with Article 114 of Law Number 35 of 2009 concerning narcotics

Law requires that humans in certain concrete situations act according to what should be done. Laws created by humans, control human life. Legal certainty is a characteristic that cannot be separated from law, especially for written law. Law without the value of certainty will lose its meaning because it can no longer be used as a guideline for behavior for everyone (*ubi jus incertum, ibi jus nullum*: where there is no legal certainty, there is no law).

One of the orientations of the purpose of law according to Gustav Radbruch is legal certainty. According to him, legal certainty is the first demand for law. This demand is for it to be positive, namely to apply with certainty. The law must be obeyed, so that the law is truly positive. 153 Legal certainty is a product of law or more specifically of legislation. Including Law Number 35 of 2009 concerning narcotics, this is because the Narcotics Law Law Number 35 of 2009 concerning narcotics is a legal certainty for citizens that must be obeyed. However, legal certainty does not automatically materialize when it is enacted and enforced. The law must still be implemented by law enforcers (practical law enforcers). In order for this legal certainty to be truly realized, certainty in its application is still needed. Positive law or authoritative text tries to provide answers to the concrete needs of society and at the same time is aimed at seeking certainty and order. However, it

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should be noted that the certainty of this authoritative text can be weakened, either by legal ambiguity or by changes in the law itself. This also includes the issue of law enforcement for narcotics crimes in Indonesia.

Law enforcement mechanisms such as narcotics, psychotropics and other addictive substances are part of the criminal justice system itself. In its development, enforcement of narcotics cases has grown and made Indonesia a drug emergency country. Drug abuse in Indonesia has reached a very concerning and dangerous point with targets that have touched all levels of society.

Regulations regarding narcotics crimes involving someone acting as an intermediary in the sale and purchase of narcotics are regulated in Law Number 35 of 2009 concerning Narcotics, namely:

1. Article 114 paragraph (1) and paragraph (2) for class I narcotics

Verse (1)

"Any person who without rights or against the law offers for sale, sells, buys, receives, acts as an intermediary in the sale and purchase, exchanges, or delivers Class I Narcotics, shall be punished with life imprisonment or imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years and a fine of at least Rp1,000,000,000.00 (one billion rupiah) and a maximum of Rp10,000,000,000.00 (ten billion rupiah)."

Verse (2)

"In the case of acts of offering for sale, selling, buying, acting as an intermediary in buying and selling, exchanging, handing over, or receiving Class I Narcotics as referred to in paragraph (1) in the form of plants weighing more than 1 (one) kilogram or more than 5 (five) tree trunks or in non-plant form weighing 5 (five) grams, the perpetrator shall be punished with the death penalty, life imprisonment, or imprisonment for a minimum of 6 (six) years and a maximum of 20 (twenty) years and a maximum fine as referred to in paragraph (1) plus 1/3 (one third)."

The two verses are interrelated so that there are several elements of a criminal act from verse (1) which are stated in verse (2), namely the legal subject in the form of "every person", which is done "without rights or against the law", the type of act is "offering for sale, selling, buying, being an intermediary in buying and selling, exchanging, handing over, or receiving", the object is "Class I Narcotics". In addition, there is a specialization in verse (2) which is aimed at the severity of Narcotics.

Group I, both in the form of plants that exceed 1 (one) kilogram or 5 (five) tree trunks, or in the form of non-plants weighing 5 (grams). This specialization makes the punishment, both imprisonment and the fines threatened, heavier than in paragraph (1) or it can be said that the minimum and maximum limits of imprisonment are higher, and the option of the death penalty is added. In addition, the fines threatened are also greater, namely with the maximum fine from paragraph (1) which is IDR 10,000,000,000.00 (ten billion rupiah) plus 1/3 (one third) of it.

2. Article 119 paragraph (1) and paragraph (2) for class II narcotics

Verse (1)

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"Any person who without rights or against the law offers for sale, sells, buys, receives, acts as an intermediary in the sale and purchase, exchanges, or delivers Class II Narcotics, shall be punished with imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years and a fine of at least Rp. 800,000,000.00 (eight hundred million rupiah) and a maximum of Rp. 8,000,000,000.00 (eight billion rupiah)."

Verse (2)

"In the case of an act of offering for sale, selling, buying, receiving, acting as an intermediary in the sale and purchase, exchanging, or handing over Class II Narcotics as referred to in paragraph (1) weighing more than 5 (five) grams, the perpetrator shall be punished with the death penalty, life imprisonment, or imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years and a maximum fine as referred to in paragraph (1) plus 1/3 (one third)."

The two articles are correlated so that there are several elements of criminal acts from article (1) which are stated in article (2) the same as Article 114, but the object is different, namely Narcotics Class II which is more than 5 (five) grams. This makes the criminal sanctions, both imprisonment and fines, which are threatened heavier than in article (1), and the addition of the option of the death penalty, life imprisonment to be imposed. The fines threatened are greater, namely the maximum fine from article (1), which is IDR 8,000,000,000.00 (eight billion rupiah) plus 1/3 (one third) of it.

3. Article 124 paragraph (1) and paragraph (2) for class III narcotics

Verse (1)

"Any person who without rights or against the law offers for sale, sells, buys, receives, acts as an intermediary in the sale and purchase, exchanges, or delivers Class III Narcotics, shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 10 (ten) years and a fine of at least Rp. 600,000,000.00 (six hundred million rupiah) and a maximum of Rp. 5,000,000,000.00 (five billion rupiah)."

Verse (2)

"In the case of an act of offering for sale, selling, buying, receiving, acting as an intermediary in the sale and purchase, exchanging or handing over Class III Narcotics as referred to in paragraph (1) weighing more than 5 (five) grams, the perpetrator shall be punished with a minimum prison sentence of 5 (five) years and a maximum of 15 (fifteen) years and a maximum fine as referred to in paragraph (1) plus 1/3 (one third)."

The two articles are correlated so that there are several elements of criminal acts from article (1) which are stated in article (2) as well as the two previous articles, namely Article 114 and Article 119, the only difference is the object, namely Class III Narcotics. In addition, there is a specialization in article (2) which is aimed at the weight of Class III Narcotics which exceeds 5 (five) grams. This makes the criminal sanctions, both imprisonment and fines, which are threatened, heavier than in article (1), namely with a minimum imprisonment of 5 (five) years and a maximum of 15 (fifteen) years. The fines threatened are greater, namely by imposing a maximum fine from article (1), namely IDR 5,000,000,000.00 (five billion rupiah) plus 1/3 (one third) of it.



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These three articles as a whole contain elements of a criminal act, namely subjective elements and objective elements.

#### 1. Subjective elements

The element of "every person" which means an individual. A legal subject who has rights and obligations and a person who is able to understand the meaning and consequences of the actions he/she has committed and can be held accountable for his/her actions without any reason for the elimination of criminal penalties, namely justification and forgiveness, in this case closely related to the ability to be responsible.

#### 2. Objective elements.

##### a. The element of "without rights or against the law"

"Without rights" is the freedom to do something that is not based on the law. "Without rights" is part of "against the law" which is any act that violates written law (statutory regulations) or general legal principles of unwritten law. "Without rights" in Law Number 35 of 2009 concerning Narcotics in Article 36 states that narcotics can only be distributed after obtaining a distribution permit from the Minister. The Minister here is the minister who organizes government affairs in the health sector or an authorized official on the recommendation of the Food and Drug Supervisory Agency (BPOM) based on Law Number 35 of 2009 concerning Narcotics and other relevant laws and regulations. So, without rights or against the law is interpreted as violating Law Number 35 of 2009 concerning Narcotics

##### b. The element "offering for sale, selling, buying, receiving, intermediary in buying and selling, exchanging or handing over"

This element is an alternative element, meaning that if one of the element formulations is fulfilled, then the element is considered proven, for example, being able to offer for sale, offering to sell. The intermediary in this element is an intermediary in buying and selling that is connected to its economic value. So there must be a seller and a buyer, then it can be said to be a courier or intermediary.

##### c. Narcotic elements, both class I, class II and class III.

In addition to narcotics crimes involving intermediaries in the sale and purchase of narcotics as regulated in the three articles, there are also intermediaries in cases where they will control, namely in their control under Article 112 of Law Number.

35 of 2009 concerning Narcotics. In his control, for example, buying it also acts as an intermediary, even though he has not yet given the narcotics to the person who ordered him to buy it but has been caught, then the narcotics are in his control. While the elements of the article are alternative, which makes it easy for public prosecutors to use the article to ensnare perpetrators of narcotics crimes because the evidence is easy. The object of narcotics crimes is not only narcotics class I, II, and III, but also narcotic precursors which are the starting materials used to make narcotics. In this case, "being an intermediary" related to narcotics precursors is regulated in Article 129 letter c, which states:

"Any person who without rights or against the law: shall be punished with imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a maximum fine of Rp. 5,000,000,000.00 (five billion rupiah)."

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- a. possessing, storing, controlling, or providing Narcotics Precursors for the manufacture of Narcotics;
- b. producing, importing, exporting or distributing Narcotics Precursors for the manufacture of Narcotics;
- c. offering for sale, selling, buying, receiving, acting as an intermediary in buying and selling, exchanging, or handing over Narcotics Precursors for the manufacture of Narcotics;
- d. carrying, sending, transporting, or transiting Narcotics Precursors for the manufacture of Narcotics."

Article 112, 114, 119, 124, 129, the legal subject is not only "every person" or individual but can also be carried out by "corporations or organized groups of people and/or wealth, both legal entities and non-legal entities". It is clear that a corporation is a group of people that does not have to be a legal entity and have articles of association. Certainly if it is a corporation, it is related to the circulation of narcotics which is very large, it is impossible for the circulation to be small. Narcotics crimes whose legal subject is a corporation, which will later be the death penalty, life imprisonment or imprisonment imposed by the judge, are carried out by the management of the corporation and fines can be imposed on the management of the corporation or the corporation itself with a larger fine. In addition to fines, corporations can also be subject to additional penalties in the form of revocation of business licenses and legal entity status. This is as stated in Article 130 paragraph (1) and (2) of Law Number 35 of 2009 concerning Narcotics, namely:

Verse (1)

"In the case of criminal acts as referred to in Article 111, Article 112, Article 113, Article 114, Article 115, Article 116, Article 117, Article 118, Article 119, Article 120, Article 121, Article 122, Article 123, Article 124, Article 125, Article 126, and Article 129 committed by a corporation, in addition to imprisonment and fines against its managers, the penalty that can be imposed on the corporation is a fine with an increase of 3 (three) times the fine as referred to in the Articles."

Verse (2)

"In addition to the criminal fines as referred to in paragraph (1), corporations may be subject to additional criminal penalties in the form of:

- a. revocation of business license; and/or
- b. revocation of legal entity status."

Attempt (pogging) according to Memorie van Toelichting, namely an attempt to commit a crime is the implementation of committing a crime that has been started but not completed, or a desire to commit a certain crime that has been realized in an initial implementation. Conspiracy in Article 1 number 18 of Law Number 35 of 2009 concerning Narcotics is defined as the act of two or more people who work together or agree to do, carry out, assist, participate in doing, order, encourage, facilitate, provide consultation, become a member of a narcotics crime organization, or organize a narcotics crime. So conspiracy means that there is already an intention between two or more people and the goods in the form of narcotics already exist. Attempt or conspiracy in narcotics crimes is regulated in Article 132 of Law Number 35 of 2009 concerning Narcotics, which reads:

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#### Verse (1)

"Attempt or conspiracy to commit a crime involving narcotics and narcotics precursors as referred to in Article 111, Article 112, Article 113, Article 114, Article 115, Article 116, Article 117, Article

118, Article 119, Article 120, Article 121, Article 122, Article 123, Article 124, Article 125, Article 126, and Article 129, the perpetrator shall be punished with the same prison sentence in accordance with the provisions as referred to in the Articles."

#### Verse (2)

"In the case of acts as referred to in Article 111, Article 112, Article 113, Article 114, Article 115, Article 116, Article 117, Article 118, Article

119, Article 120, Article 121, Article 122, Article 123, Article 124, Article 125, Article 126, and Article 129 are carried out in an organized manner, the maximum prison sentence and fine are increased by 1/3 (one third). "

#### Verse (3)

"The increased penalty as referred to in paragraph (2) does not apply to criminal acts which are punishable by the death penalty, life imprisonment, or 20 (twenty) years imprisonment."

Based on Article 112, Article 114, Article 119, Article 124, Article 129, Article 130 and Article 132, it can be seen that narcotics crimes involving a person acting as a narcotics intermediary, the criminal sanctions threatened vary depending on the type of narcotics, the severity of the narcotics and the form of the narcotics, whether in the form of plants or non-plants, and even the legal subjects such as individuals or corporations.

Against the above rules, providing certainty to perpetrators and sellers of narcotics with strict legal threats, this is in line with Legal certainty as one of the objectives of the law can be said to be part of an effort to realize justice. The real form of legal certainty is the implementation or enforcement of the law against an action regardless of who does it. With legal certainty, everyone can estimate what will be experienced if they take certain legal actions. Certainty is needed to realize the principle of equality before the law without discrimination.<sup>9</sup>

The word "certainty" is closely related to the principle of truth, which is something that can be strictly syllogized legally-formally. Through deductive logic, positive legal rules are placed as major premises, while concrete events become minor premises. Through a closed logic system, the conclusion can be obtained immediately. The conclusion must be something that can be predicted, so that everyone must adhere to it. With this grip, society becomes orderly. Therefore, certainty will lead society to order.<sup>10</sup>

Legal certainty will guarantee that someone behaves in accordance with applicable legal provisions, conversely without legal certainty, someone does not have standard provisions in carrying out behavior. Thus, it is not wrong if Gustav Radbruch puts forward certainty as

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<sup>9</sup>Moh. Mahfud MD, Law Enforcement and Good Governance, Material at the National Seminar "Time for Conscience to Speak" organized by the DPP of the HANURA Party. Constitutional Court Jakarta, January 8, 2009

<sup>10</sup>Arief Sidharta, Meuwissen on the Development of Law, Legal Science, Legal Theory and Legal Philosophy, PT Refika Aditama, Bandung, 2007, p. 8.

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one of the objectives of the law. In the order of community life, it is closely related to certainty in law. Legal certainty is in accordance with normative nature, both provisions and judge's decisions. Legal certainty refers to the implementation of a life order that in its implementation is clear, orderly, consistent, and consequent and cannot be influenced by subjective circumstances in community life.<sup>11</sup>

According to Gustav Radbruch, "The law must contain 3 (three) identity values, namely as follows:<sup>12</sup>

- a. The principle of legal certainty (*rechtmatigheid*). This principle examines from a legal perspective;
- b. The principle of legal justice (*gerechtigheit*). This principle is viewed from a philosophical perspective, where justice is equal rights for all people before the court;
- c. The principle of legal utility (*zwechmatigheid* or *doelmatigheid* or utility).

Gustav Radbruch put forward 4 (four) basic things related to the meaning of legal certainty, namely "First, that the law is positive, meaning that positive law is legislation. Second, that the law is based on facts, meaning that it is based on reality. Third, that facts must be formulated in a clear way so as to avoid errors in interpretation, in addition to being easy to implement. Fourth, positive law must not be easily changed." Gustav Radbruch's opinion is based on his view that legal certainty is certainty about the law itself. Legal certainty is a product of law or more specifically of legislation. Based on his opinion, according to Gustav Radbruch, "Positive law that regulates human interests in society must always be obeyed even though the positive law is less fair."<sup>13</sup>

Furthermore, legal certainty is a matter (condition) that is certain, provisions or stipulations. Law must essentially be certain and fair. Certain as a guideline for behavior and fair because the guideline for behavior must support an order that is considered reasonable. Only because it is fair and implemented with certainty can the law carry out its function. Legal certainty is a question that can only be answered normatively, not sociologically.<sup>14</sup> If it is related to legal certainty for drug abusers, at least there are laws and regulations that regulate it so that each individual can know what actions are allowed or not allowed.

The Law on Narcotics has provided clear legal certainty for each perpetrator so that the Law on Narcotics can be said to have 2 (two) sides, namely the humanist side for addicts and drug abusers, and the tough and firm side for drug dealers, syndicates, and distributors. However, attention needs to be paid to its implementation where "Criminal penalties given to users are not an effective way to repair damage. At the same time, criminal penalties have the potential to be harsh and are therefore limited by procedural formalism."<sup>15</sup>

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<sup>11</sup>Nur Agus Susanto, Axiological Dimension of the "ST" Case Decision, Review Decision Study Number 97 PK/Pid.Sus/2012, Judicial Journal Vol. 7 No. 3 December 2014. <https://jurnal.komisiyudisial.go.id/index.php/jy/article/view/73>, accessed on 7/11/2024. At 19.00 WIB.

<sup>12</sup>Satjipto Rahardjo, 2012, Legal Science, Citra Aditya Bakti, Bandung, p. 45

<sup>13</sup>Handika Rahmawan, Civil Liability of Doctors and Hospitals to Patients in Medical Disputes According to the Indonesian Civil Law System, Thesis, Postgraduate Program, Faculty of Law, Andalas University, Padang 2019, p. 21 <http://scholar.unand.ac.id/56711/2/bab%20I.pdf>, accessed on 7/11/2024. At 22.00 WIB

<sup>14</sup>Dominikus Rato, Philosophy of Law Seeking: Understanding and Understanding the Law, Laksbang Pressindo, Yogyakarta, 2010, p.59

<sup>15</sup>Philippe Nonet, and Philip Selznick, "Responsive Law", Nusamedia, Bandung, 2008, p. 13

### **3.2. Legal Accountability for Criminal Actors Without the Right to Sell Narcotics (Study of Decision No. 416/Pid.Sus/2024/PN.BTM)**

Responsibility in the legal dictionary can be termed as liability and responsibility, the term liability refers to legal responsibility, namely liability due to errors made by legal subjects, while the term responsibility refers to political responsibility. The theory of responsibility emphasizes more on the meaning of responsibility that arises from the provisions of the Laws and Regulations so that the theory of responsibility is interpreted in the sense of liability,<sup>16</sup> as a concept related to the legal obligation of a person who is legally responsible for certain actions that he can be subject to sanctions in cases where his actions are contrary to the law.

In the implementation of a country and government, accountability is attached to the position that has also been attached to authority, in the perspective of public law, the existence of this authority is what gives rise to accountability, in line with the general principle; "geenbevegedheid zonder verantwoordelijkheid; there is no authority without responsibility; la sulthota bila mas-uliyat" (there is no authority without accountability).

A crime is an unlawful act that has been done either intentionally or unintentionally by a person whose actions can be accounted for and by law has been declared as an act that can be punished. If someone commits a crime, then his actions must be accounted for.

The author will describe how the responsibility in the case of Decision No.416/Pid.Sus/2024/PN.BTM by the judge, in this sub-chapter the researcher divides it into several sub-chapters, namely:

#### **1. Case Position**

on Thursday, March 28, 2024 at around 20.00 WIB, defendant P was contacted by an Old Man (DPO) who then invited defendant P to meet on the side of the road in front of Awal Bros Hospital, Batam City, then the Old Man handed over 1 white plastic bag containing 1 clear white jar containing 1 (one) package of narcotics in the form of crystal methamphetamine and 1 digital scale, then the Old Man said to defendant P "you make this money", then defendant P took the crystal methamphetamine and the digital scale to a ruli house in Kampung Baru Indosat Sekupang which used to be the defendant's residence then on Friday, March 29, 2024, at around 14.00 WIB when defendant P was in the workshop, not long after that Witness H came who then defendant P told Witness H that defendant P had crystal methamphetamine and asked Witness H to sell the crystal methamphetamine, and at around 15.30 WIB defendant P together with Witness H headed to the ruli in Kampung Baru Indosat Sekupang, and after arriving, defendant P and Witness H immediately went into the house and then defendant P took 1 package of crystal methamphetamine along with a digital scale, then assisted by Witness H, he broke the 1 package of crystal methamphetamine into 6 (six) packages in order to facilitate the sale of the crystal methamphetamine, then defendant P handed over 1 package of crystal methamphetamine that had been broken up to Witness H and said "just hold this, who knows someone will buy it later" which was then taken by Witness H and put into the pocket of Witness H's pants, while the remaining 5 (five) packages were put back into the jar

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<sup>16</sup>Usyra Azheri, 2011, Corporate Social Responsibility from Voluntary to Mandatory, Raja Grafindo Press, Jakarta, p. 54



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by defendant P, then defendant P and Witness H returned to the workshop at around 18.00 WIB, defendant P was contacted by K (DPO) who ordered crystal methamphetamine for Rp. 2,000,000,- then defendant P asked to meet at the Cipta Puri Bus Stop at around 21.00 WIB, and then at around 21.00 WIB defendant P contacted Witness H and told Witness H to check whether K was at the promised place, then Witness H went to the intended place but K was not there, then defendant P picked up Witness H and then they left the bus stop to go to the Mentarau Tax Kiosk, and at around 22.00 WIB when defendant P together with Witness H were in front of the Mentarau Tax Kiosk, Patam Lestari Village, Kec. Sekupang, Batam City, defendant P and Witness H were arrested by Witness Wan Rahmat K together with the Team from the Bareleng Police Narcotics Investigation Unit who then conducted a search and found evidence in the form of 1 package containing crystal methamphetamine in Witness H's trouser pocket. Then Witness Wan Rahmat K together with the Team conducted a search at Ruli's house in Kampung Baru Indosat Sekupang which used to be the residence of defendant P and found evidence in the form of 1 (one) jar containing 5 packages of crystal methamphetamine in the front room of Ruli's house. Next, the defendant P and the evidence were taken to the police station for further processing.

## 2. Verdict

The chronology of the Batam District Court Decision No.416/Pid.Sus/2024/PN.BTM, is as follows:

- a. Declaring that Defendant P has been proven legally and convincingly guilty of committing a criminal act, without rights or against the law offering to sell Class I narcotics in non-plant form weighing more than 5 (five) grams;
  - b. Sentencing Defendant P to 9 (nine) years and 6 (six) months imprisonment and a fine of Rp. 2,125,000,000 (two billion one hundred twenty five million rupiah) with the provision that if the fine is not paid, it will be replaced with 3 (three) months imprisonment;
  - c. Determine that the period of detention and arrest that the defendant has served is deducted in full from the sentence imposed;
  - d. Determine that the defendant remains in detention;
  - e. Stating evidence in the form of:
    - 1 clear plastic package containing narcotics crystal methamphetamine with a net weight of 0.91 grams;
    - 1 jar containing 5 packages of crystal methamphetamine with a gross weight of 51.25 grams (net weight 42.36 grams)
    - 1 unit black Samsung A30 cellphone
    - 1 unit of digital scales, pocket scale brand, silver color;Seized for destruction;
  - f. 1 unit Honda Spacy motorbike, black green BP 3061 GI
  - g. 1 unit Yamaha Mio Soul motorbike maroon color BP5630 EP
- Confiscated for the state;
- h. Charge the defendant with paying court costs of Rp. 5,000 (five thousand rupiah).

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### 3. Analysis

The author reads and analyzes cases regarding narcotics crimes, the author will analyze the verdict 416/Pid.Sus/2024/PN.BTM which states that the defendant with the initials P has been proven legally and convincingly guilty of committing a crime as regulated in the primary charge of Article 114 Paragraph (1) of Law Number 35 of 2009 concerning Narcotics, which reads:

"Any person who without rights or against the law offers for sale, sells, buys, receives, acts as an intermediary in the sale and purchase, exchanges, or delivers Class I Narcotics, shall be punished with life imprisonment or imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years and a fine of at least Rp1,000,000,000.00 (one billion rupiah) and a maximum of Rp10,000,000,000.00 (ten billion rupiah)."

The elements of the article are as follows:

#### a. Each person

The element of "every person" is a subjective element of a crime. In criminal law, "every person" indicates a legal subject, namely the perpetrator of a crime. A legal subject who has rights and obligations and a person who is able to understand the meaning and consequences of the actions he has committed and can be held accountable for his actions without any reason for the elimination of criminal law, namely justification and forgiveness. Every legal subject is closely attached to the ability to be responsible, namely a condition that can result in a person who has done something expressly prohibited and threatened with punishment by law.

Memorie Van Toelichting (MVT) asserts that "the element of responsible capability does not need to be proven", because this element is considered to exist in every person who commits an act that violates the law as a silent element in every crime. This element is proven if there is doubt about the ability to be responsible from the person who committed the narcotics crime. The defendant with the initials P with all his identities listed in the Public Prosecutor's Indictment and which has been confirmed by the defendant himself. Based on the reality and facts in the trial, the defendant is a person who has a healthy body condition both physically and mentally, so that he has the ability and capacity to be legally responsible for his actions. In other words, criminal legal responsibility can be requested from the defendant with the initials P because there is no justification and excuse that can eliminate his punishment. So, the element of "everyone" is fulfilled.

#### b. Without Rights Or Against the Law

Rights are the freedom to do something based on the law while "without rights" is the freedom to do something not based on the law. "Without rights" is part of "against the law" which is any act that violates written law (statutory regulations) or general legal principles of unwritten law. "Without rights" in Law Number 35 of 2009 concerning Narcotics in Article 36 states that narcotics can only be distributed after obtaining a distribution permit from the Minister. The Minister here is the minister who organizes government affairs in the health sector based on Law Number 35 of 2009 concerning Narcotics and other relevant laws and regulations. Regarding the subjects who are given the authority to be able to offer for sale, sell, buy, receive, be an intermediary in buying and selling, exchange or hand over, it has been determined based on a permit from the Minister of Health as regulated in Law

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Number 35 of 2009 concerning Narcotics. So, as long as there is no permit from the Minister of Health, then anyone who carries out activities offering for sale, selling, buying, receiving, acting as an intermediary in buying and selling, exchanging or handing over can be qualified as a subject without rights and the actions he/she does as an unlawful act. From these provisions, the defendant with the initials P obtained narcotics from Pak Tua who is not a minister who is authorized to grant permission or whose work has nothing to do with the authorized agency even in the defendant's confession. Thus the defendant does not have a permit from the authorized Minister to distribute, distribute, offer and hand over narcotics. In addition, the existence of narcotics in the form of methamphetamine in the form of crystal powder in the defendant's house is not based on things that are appropriate according to law, so that the element of "without rights or against the law" has been fulfilled.

c. Offering for sale, selling, buying, receiving, intermediary in buying and selling, exchanging or handing over.

This element is alternative, meaning that if one of the elements is fulfilled, then the element is considered proven. In the decision number Decision Number 416/Pid.Sus/2024/PN.BTM which is proven, namely "offering for sale, selling". "offering for sale, selling", namely as a narcotics seller, So that the defendant who is the seller by communicating with Brother K via WA (Whats App) application messages.

d. Class I Narcotics

That the object of the elements of this indictment article is Class I Narcotics. Thus, the elements in Article 114 paragraph (1) of Law Number 35 of 2009 concerning Narcotics in the primary indictment of the public prosecutor have been proven legally and convincingly guilty. After the elements of the narcotics crime have been fulfilled, then the criminal responsibility can be determined.

The conditions for criminal responsibility according to According to Ruslan Saleh, it is as follows:

- a. Committing a criminal act;
- b. Able to take responsibility;
- c. With intent or negligence, and
- d. There is no excuse for it.

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 decision Number 416/Pid.Sus/2024/PN.BTM related to misuse in the criminal act of misuse of class I non-plant narcotics, the defendant with the initials P, where according to Article 45 of the Criminal Code, he can be held accountable for his actions before the law.

The second element is to determine the form of the defendant's mistake, whether intentionally or due to negligence or negligence. From the chronology of the incident above, it can be concluded that the defendant with the initials P intentionally stored class I narcotics of the non-plant type and intended to sell them.

The third element is that there is no reason for the removal of the criminal penalty or a reason for forgiveness. A reason for forgiveness is a reason that eliminates the perpetrator's

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guilt in criminal law. In the case of the abuse of class I non-plant narcotics committed by the defendant with the initials P, no reason was found that could eliminate the guilt, namely intentionally storing class I non-plant narcotics for sale.

Regarding the sentence that the judge has imposed on the defendant, the defendant has accepted what the judge has decided against him, because of the defendant's mistake. In fact, the defendant did not file an appeal or cassation against the verdict of the Batam District Court judge against him. Therefore, the defendant is ready to be responsible for what the defendant has done, just as the judge has imposed a sentence on the perpetrator of a narcotics crime by intentionally giving an appropriate sentence to the defendant who committed a narcotics crime to endure the suffering of what the defendant has done. The punishment is not revenge but it is to provide misery for people as perpetrators and as other members of the general public. So the defendant is responsible for his actions with the obligation of the defendant to undergo his punishment properly and correctly according to the provisions of the verdict. However, according to the author, the judge in imposing his verdict is too high, the judge should have considered mitigating factors, including the defendant being polite in giving testimony in court and admitting his actions, regretting them and promising not to repeat them again; The defendant has never been convicted;

#### 4. Conclusion

Based on the explanation above, the following conclusions can be drawn: 1. The construction of a criminal act without the right to sell narcotics in the concept of legal certainty is regulated in Article 114 of Law Number 35 of 2009 concerning Narcotics for class I narcotics. The concept of legal certainty is expressly regulated in this article regarding criminal provisions and sanctions. 2. Form of legal responsibility for a person who acts as a narcotics intermediary in decision number 416/Pid.Sus/2024/PN.BTM in the eyes of the judge, namely the defendant with the initials P by carrying out the sentence imposed by the judge in the form of imprisonment for 9 (nine) years and 6 (six) months and a fine of Rp. 2,125,000,000 (two billion one hundred twenty five million rupiah) with the provision that if the fine is not paid, it will be replaced with imprisonment for 3 (three) months, and the defendant did not file any objection to the decision in the form of an appeal or cassation.

#### 5. References

##### Journals:

- Indah Lestari dan Sri Endah Wahyuningsih, 2017 "Penegakan Hukum Pidana Terhadap Pengguna Narkoba Di Polda Jateng", *Jurnal Hukum Khaira Ummah*, Vol. 12. No. 3 September h.60.  
<http://jurnal.unissula.ac.id/index.php/jhku/article/view/1889>, diakses pada tanggal 7/11/2024. Pukul 07.00 WIB
- Nur Agus Susanto, Dimensi Aksiologis Dari Putusan Kasus "ST" Kajian Putusan Peninjauan Kembali Nomor 97 PK/Pid.Sus/2012, *Jurnal Yudisial* Vol. 7 No. 3 Desember 2014.  
<https://jurnal.komisiyudisial.go.id/index.php/jy/article/view/73>, diakses pada tanggal 7/11/2024. Pukul 19.00 WIB.

Master of Law, UNISSULA

Sanna Friani Manalu , Arta Rumiris Sipahutar , Sampe Raja Sinaga dan Mesias J.P Sagala, Analisis Yuridis Terhadap Penyalahgunaan Narkotika Jenis Sabu-Sabu Dan Pil Ekstasi Ditinjau Dari Segi Hukum Pidana Dalam Putusan Nomor : 473/Pid.Sus/2015/Pt.Mdn, JURNAL RECTUM, volume I, Nomor 2, Juli 2019 h 117, <https://jurnal.darmaagung.ac.id/index.php/jurnalrectum/article/download/224/237/>. Diakses pada tanggal 31/10/2024. Pukul 20.00 WIB

### Books:

- A.P Parlindungan, 1997, *Komentor Atas Undang-Undang Perumahan dan Permukiman & Undang-Undang Rumah Susun*, Bandung: Mandar Maju
- Arief Sidharta, Meuwissen Tentang Pengembangan Hukum, Ilmu Hukum, Teori Hukum dan Filsafat Hukum, PT Refika Aditama, Bandung, 2007
- Bambang Sunggono, 2010, *Metodologi Penelitian Hukum*, Jakarta, Rajawali Pers
- Barda Nawawi Arief. 2001, *Masalah Penegakan Hukum dan Kebijakan Penanggulangan Kejahatan*, Citra Aditya Bakti, Bandung
- Chairul Huda, 2008, "Dari 'tiada pidana tanpa kesalahan' menuju kepada 'tiada pertanggungjawaban pidana kesalahan'" PT Prenada Media, Jakarta.
- Darji Darmodiharjo & Shidarta, 1996, *Penjabaran Nilai-nilai Pancasila Dalam Sistem Hukum Indonesia*, Rajawali Pers, Jakarta.
- Didik Endro Purwoleksono 2016, *Hukum Pidana (cetakan pertama)*, Airlangga University Press. Pusat Penerbitan dan Percetakan (AUP). Surabaya.
- E.Y.Kanter & S.R Sianturi. 2002, *Asas-asas Hukum Pidana di Indonesia dan Penerapannya*. Stora Grafika, Jakarta
- E.Y.Kanter & S.R Sianturi. 2002, *Asas-asas Hukum Pidana di Indonesia dan Penerapannya*. Stora Grafika, Jakarta
- Fitri Wahyuni. 2017, *Dasar-Dasar Hukum Pidana Di Indonesia*, PT Nusantara Persada Utama,
- Gatot Supramono, *Hukum Narkotika Indonesia*, Djambatan, Jakarta. 2009. Gouzali Saydam, *Panduan Lengkap Pengantar Bisnis*, Alfabeta, Bandung, 2006
- Gouzali Saydam, *Panduan Lengkap Pengantar Bisnis*, Alfabeta, Bandung, 2006
- Handika Rahmawan, *Pertanggungjawaban Perdata Dokter Dan Rumah Sakit Terhadap Pasien Pada Sengketa Medis Menurut Sistem Hukum Perdata Indonesia*, Tesis, Program Pascasarjana Fakultas Hukum Universitas Andalas Padang 2019
- Hans Kelsen (a) , 2007, sebagaimana diterjemahkan oleh Somardi, *General Theory Of law and State* , Teori Umum Hukum dan Negara, Dasar-Dasar Ilmu Hukum Normatif Sebagai Ilmu Hukum Deskriptif Empirik, BEE Media Indonesia, Jakarta.
- HR. Ridwan, 2006, *Hukum Administrasi Negara*, Raja Grafindo Persada, Jakarta,.
- Hukum Murni, Nuansa & Nusa Media, Bandung.
- I Made Pasek Diantha, 2016, *Metodologi Penelitian Hukum Normatif Dalam Justifikasi Teori Hukum* , Kencana Prenada Media Group, Jakarta.



Master of Law, UNISSULA

Ilham, 2017, Tinjauan Yuridis Terhadap Tindak Pidana Pencurian Dengan Pemberatan, Skripsi, Departemen Hukum Pidana Fakultas Hukum Universitas Hasanuddin Makassar.

Ismu Gunadi dan Jonaedi Efendi, 2014, *Hukum Pidana*, Jakarta: Kencana Jakarta.

Jimly Asshiddiqie dan Ali Safa'at, 2006, eori Hans Kelsen Tentang Hukum, Cet.1. Sekretariat Jenderal & Kepaniteraan Mahkamah Konstitusi RI, Jakarta

Jimly Asshiddiqie dan Ali Safa'at, 2006, eori Hans Kelsen Tentang Hukum, Cet.1. Sekretariat Jenderal & Kepaniteraan Mahkamah Konstitusi RI, Jakarta

Juliana Lisa F R dan Nengah Sutrisna W, Narkoba, Psikotropika dan Gangguan Jiwa Tinjauan Kesehatan dan Hukum, Nuha Medika, Yogyakarta, 2013,

Kusno Adi, 2009, Kebijakan Kriminal Dalam Penanggulangan Tindak Pidana Narkotika Oleh Anak, pertama ed, Malang, UMM Press.

Lamintang . 2017. Hukum Penitensier Indonesia. Sinar Grafika, Jakarta,

Leden Marpaung. 2017. Asas-Teori-Praktek Hukum Pidana. Sinar Grafika, Jakarta .

M.Ichsan & M.Endrio Susila, 2008, Hukum Pidana Islam: Sebuah Alternatif, Cet. Ke-1, Lab Hukum UM, Yogyakarta.

Mahendra Pangestu, Pertanggungjawaban Pidana Pelaku Tindak Pidana Penyalahgunaan Narkotika Jenis Tembakau Gorilla, Fakultas Hukum Universitas Pancasakti Tegal 2020, h 1

Mardani, 2008, Penyalahgunaan Narkoba Dalam Perspektif Hukum Islam dan Hukum Pidana Nasional, Raja Grafindo, Jakarta.

Masri Singarimbun & Sofian Effendi. 2008. Metode Penelitian Survei, LP3ES, Jakarta

Muladi dan Barda Nawawi Arief, 1984 Teori-Teori Kebijakan Pidana, Alumni, Bandung.

O.C. Kaligis & Associates, 2002, *Narkoba dan Peradilannya di Indonesia, Reformasi Hukum Pidana Melalui Perundangan dan Peradilan*, Alumni, Bandung

Roeslan Saleh. 2002, *"Pikiran-pikiran Tentang Pertanggungjawaban Pidana"*. Ghalia Indonesia. Jakarta

Soerjono Soekanto, 2007, *Penelitian Hukum Normatif*, Jakarta, PT. Raja Grafindo Persada

Sugeng Istanto, 2014, Hukum Internasional, Cet.2, Universitas Atma Jaya Yogyakarta, 2014

Topo Santoso dan Eva Achani Zulfa, 2011, Kriminologi, Cetakan Kesepuluh, Raja Grafindo Persada

Usyra Azheri, 2011, *Corporate Social Responsibility dari Voluntary menjadi Mandotary*, Raja Grafindo Perss, Jakarta

Zainuddin Ali, 2009, *Metode Penelitian Hukum*, Sinar Grafika, Jakarta

### **Regulation:**

Law Number 8 of 1981 concerning the Criminal Procedure Code

Narcotics Law