

The Role of the Prosecutor in Implementing the Execution of Evidence of Narcotics Crimes Confiscated for the State Based on the Value of Utility

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Abstract. *The purpose of this study is to determine the role of the prosecutor's office in the execution of evidence in narcotics crimes confiscated for the state based on value of utility. The approach method used in this study is normative juridical. The specification of this research is descriptive and analytical. The data source used is secondary data. Secondary data is data obtained from literature research consisting of primary legal materials, secondary legal materials and tertiary legal materials, which in this case is related to the role of the prosecutor's office in the execution of evidence in narcotics crimes that are confiscated for the state based on value of utility. The results of the study show that the Prosecutor's Office has a very important role in carrying out the execution of evidence of narcotics crimes confiscated for the state can be useful for increasing Non-Tax State Revenue through direct sales or auctions, and especially for evidence in the form of narcotics can be used for the benefit of health services and/or the development of science and technology. And because of that, it is hoped that the Prosecutor's Office can professionally carry out the execution of confiscated narcotics evidence for the state so that it can provide justice, certainty, and legal benefits.*

Keywords: *Crimes; Evidence; Execution; Narcotics; Prosecutor's.*

1. Introduction

The law, as a system, can function effectively and effectively in society if its implementing instruments are complemented by roles within the law enforcement sector. One such role is the Attorney General's Office of the Republic of Indonesia.¹ as a law enforcement agency in the field of prosecution and also as

¹Ahmad Firmanto Prasedyomukti and Rakhmat Bowo Suharto, The Role of Judicial Commission on Supervision of Judge's Crime in Indonesia, Jurnal Daulat Hukum Volume 1 Issue 4 December 2018, url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/3931/2793>

the sole executor in criminal acts to implement decisions with permanent legal force.²

The role of law enforcement is essential for the effective functioning of the legal system, ensuring justice and legal certainty in society. The Prosecutor's Office, a government institution primarily responsible for prosecution, is the law enforcement agency. Furthermore, the Prosecutor's Office is the sole executor of criminal cases, enforcing legally binding decisions.³As the pivot of law enforcement, the Prosecutor's Office plays a strategic role because it sits at the center of the law enforcement process, acting as a filter between the investigation and trial stages. Therefore, the Prosecutor's Office's presence in law enforcement efforts is expected to continuously improve law enforcement performance to the maximum, in a professional, integrated, open, and accountable manner.

According to Smith Kline and French Staff in their book "Drug abuse manual for law enforcement officers" the meaning of narcotics is explained as follows:

*"Narcotics are substances that can cause unconsciousness or anesthesia because they affect the central nervous system. Therefore, these narcotics are considered a type of addiction, including anti-anxiety drugs derived from opium (myopin, etc.)."*⁴

The Republic of Indonesia Law Number 35 of 2009 concerning Narcotics was established with the aim of "ensuring the availability of narcotics for the benefit of health and the development of science and technology, so as to save society from narcotics abuse."⁵

Drug crimes are a specific type of crime that has spread nationally and internationally, as their misuse has devastating consequences for families, communities, the nation, and the state. Commonly recognized types of drug crimes include drug abuse, distribution, and trafficking.⁶

²Sulaiman Nandihanta Rezzi Suharso and Andri Winjaya Laksana, The Role and Function of Prosecutors in the Implementation of the Destruction of Evidence of Narcotics Abuse in the City of Semarang, *Proceedings of the National Seminar UNISSULA STUDENT SCIENTIFIC CONFERENCE (KIMU) 3 Sultan Agung Islamic University Semarang Law Cluster*, 28 October 2020, ISSN. 2720-913X p. 295

³Sulaiman Nandihanta Rezzi Suharso and Andri Winjaya Laksana, The Role and Function of Prosecutors in the Implementation of the Destruction of Evidence of Narcotics Abuse in the City of Semarang, *Proceedings of the National Seminar UNISSULA STUDENT SCIENTIFIC CONFERENCE (KIMU) 3 Sultan Agung Islamic University Semarang Law Cluster*, 28 October 2020, ISSN. 2720-913X p. 295

⁴Nurhadianto, "Internalization of Pancasila Values in an Effort to Form Drug-Resistant Students," *Journal of Social Science Education*, vol. 23, (2014): 44-54, <https://ejournal.upi.edu/index.php/jpis/article/view/1618> p. 46.

⁵Article 4 of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics

⁶Andri Winjaya Laksana, Legal Review of Criminalization of Narcotics Abusers with Rehabilitation System, *Journal of Legal Reform* Volume II No. January 1 - April 2015, p. 75

Criminal law is a set of regulations governing various acts considered criminal. Criminal law consists of rules covering rights, obligations, and prohibitions, beginning with consequences in the form of punishment.⁷The Prosecutor's Office has the authority to carry out prosecutions and also carry out its duties and rights in investigating and prosecuting criminal cases, including the prosecution of all criminal acts, including narcotics crimes.⁸

The verdict does not only contain what criminal acts have been proven in court committed by the defendant and the sanctions imposed on the defendant, whether in the form of criminal penalties and/or fines and court costs, but if in the case there is evidence that has been legally confiscated and used as evidence in the trial, then the status of the evidence must be determined in the verdict as considered by the panel of judges whether the evidence is returned to the rightful party, or destroyed or confiscated for the State and is still needed for other cases so that the role of the panel of judges is as a determinant of truth and law enforcement through the judicial process to be able to provide legal certainty through its verdict.⁹

In determining the verdict, it is not determined solely by the chairman of the panel, but the verdict is the result of an agreement reached through deliberation between the chairman and member judges based on the indictment which is connected to the trial facts in order to obtain the judge's confidence in determining a verdict.¹⁰The prosecutor as executor is obliged to implement the decision that has permanent legal force regarding the sanctions that have been imposed on the defendant, whether in the form of criminal penalties and/or fines and court costs, as well as regarding evidence that has been determined to be returned, destroyed or confiscated for the state.¹¹

Before evidence can be used to prove something, the evidence must first be legally confiscated. What is meant by confiscation is "a series of actions by investigators to take over and/or store under their control movable or immovable, tangible and

⁷Andri Winjaya Laksana, Implementation of Examination of Narcotics Abusers Using the Rehabilitation System at the National Narcotics Agency of Central Java Province, *Journal of Legal Reform* Volume III No. May 2 - August 2016, p. 254

⁸Inten Kuspitasari and Umi Rozah, "The Role of the Prosecutor's Office as Death Penalty Executor in Indonesia," *Diponegoro Law Journal*, Vol. 6, (2017): 1-16, <https://Media.Neliti.Com/Media/Publications/163074-Id-Peran-Kejaksaan-sebagai-Eksekutor-Pidana.Pdf>. p. 3

⁹Tommy Busnarma, "Implementation of Criminal Fines for Perpetrators of Narcotics Abuse and Illicit Trafficking in Padang District Court," *Soumatra Law Review* 2, no. 1 (May 1, 2019): 172-192, <https://doi.org/10.22216/soumlaw.v2i1.3559>. p. 179.

¹⁰M. Yahya Harahap, Discussion of Problems and Application of the Criminal Procedure Code (Court Hearing, Appeal, Cassation, and Judicial Review), Sinar Grafika, Jakarta, 2000, p. 347

¹¹Hanadi, "Analysis of Judge's Decision Number: 113/Pid.B/2007/Pn.Pml Concerning the Crime of Narcotics Abuse," *Journal of Legal Dynamics*, <http://dinamikahukum.fh.unsoed.ac.id/index.php/JDH/article/view/131/79>. p. 5

intangible objects for the purposes of evidence in investigations, prosecutions and trials."¹²If evidence is seized for state purposes based on a legally binding decision, the prosecutor, acting as executor, can execute the seizure by holding an auction of the evidence through a state-owned auction institution. The proceeds from the auction will be used as Non-Tax State Revenue (PNBP).

That in the handling of narcotics crimes in practice, the prosecutor demands that narcotics evidence be confiscated for destruction and the judge decides that it be confiscated for destruction. The regulation of narcotics crime evidence in the narcotics law is determined in a limited manner as in Article 136 and Article 101 of the Narcotics Law, which states that "

Article 136

*"Narcotics and narcotic precursors and the proceeds obtained from narcotics crimes and/or precursor crimes, whether in the form of assets in the form of movable or immovable objects, tangible or intangible, as well as goods or equipment used to commit narcotics crimes and narcotic precursor crimes, are confiscated for the state."*¹³

Article 101 paragraph (1)

"Narcotics, Narcotics Precursors, and tools or goods used in narcotics and narcotics precursor crimes or those involving narcotics and narcotics precursors and the proceeds are declared to be confiscated for the state."¹⁴

That based on the provisions above regarding evidence that is determined to have a status other than that confiscated for the state, the decision is not in accordance with the provisions, however regarding the implementation of the provisions there are no specific provisions regarding the procedure for carrying out the execution of narcotics confiscated for the state, whether an auction is carried out as is the case with evidence that has economic value in general, considering that the allocation for Narcotics Evidence is determined in a limited manner as per the provisions below:

Article 91

"The confiscated narcotics and narcotic precursors are for the purposes of providing evidence in cases, for the purposes of developing science and technology, for the purposes of education and training, and/or for destruction."¹⁵

¹²Andi Hamzah. Indonesian Criminal Procedure Law. Jakarta: Sinar Grafika, 1996, p. 144

¹³Article 136 of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics

¹⁴Article 101 of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics

¹⁵Article 91 of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics

Determining the status of evidence in the form of narcotics and narcotic precursors that are confiscated for the State can create a view or assumption that management related to narcotics and narcotic precursors is in the hands of the State, however, if the handling of the evidence is treated the same as other goods of economic value which are executed by auction through the state auction office, this can result in a negative stigma in society because it can be circulated again or misused.

However, if there is a narcotics crime case that has been decided by a court judge using considerations of Article 136 and Article 101 of the Narcotics Law that the evidence in the form of narcotics that is confiscated for the State will be an obstacle in itself considering that the execution of the evidence does not have any special provisions on whether it is treated the same as other economic goods that are auctioned through the state auction office or whether in the execution stage it can also be applied as in Article 91 of the Narcotics Law as in the investigation stage.

Based on the explanation of the background that has been presented previously, the author feels interested in researching whether the execution of narcotics evidence confiscated for the state by the Prosecutor's Office can be more beneficial so that the aim of this study is to find out how the Prosecutor's Office's role is in implementing the execution of narcotics crime evidence confiscated for the state based on utility value.

2. Research Methods

The approach method used in this research is normative juridical. The specifications of this research are descriptive analytical. The data source used is secondary data. Secondary data is data obtained from library research consisting of primary legal materials, secondary legal materials, and tertiary legal materials, which in this case relate to the Role of the Prosecutor's Office in the Implementation of the Execution of Evidence of Narcotics Crimes Confiscated for the State Based on Utility Value.

3. Results and Discussion

3.1. The Role of the Prosecutor's Office in the Implementation of the Execution of Evidence of Narcotics Crimes Confiscated for the State

In the context of Dutch criminal law, there is the term *Strafbaar feit*. This term can be broken down into three components: *Straf* (criminal and legal), *Baar* (can), and *Feit* (act).¹⁶ According to Moeljatno, actions that are considered criminal are

¹⁶Adami Chazawi, *Criminal Law Lesson 1*, Jakarta: PT. Raja Grafindo, 2007, p. 69

actions that fall into the category of prohibitions with sanctions in a legal regulation for those who violate them.¹⁷

As law enforcement officers, in carrying out prosecutions, they can realize justice, certainty, and legal benefits by providing guarantees, protection, and equal treatment for all members of society within the legal context (equality before the law). Law enforcement is carried out through authority or power that includes investigation, prosecution, proof through court hearings, and the implementation of decisions, in accordance with the perspective of the criminal justice system.¹⁸

The crucial position of the prosecutor's office in the criminal justice system is very significant because it has the authority to determine whether a case can be submitted to court or not, considering its role as the regulator of the legal process (*Dominus Litis*) and the implementer of criminal law decisions (*executive ambtenaar*).

Therefore, the execution of a case reflects the success of the ongoing court process. Prosecutors have the authority and role of implementing decisions that have final legal force. In the execution of a case, especially in narcotics crimes, not only the execution of corporal punishment but also the execution of physical evidence. The importance of physical evidence in narcotics crime cases serves as a basis for arresting individuals involved in the crime, who will then be brought to court. Therefore, evidence in the form of narcotics plays a very crucial role, especially in handling narcotics cases, thus enabling the implementation of certain and clear law enforcement.

The definition of evidence is not clearly specified in the Criminal Procedure Code, but only specifies items that are potentially subject to seizure. The following are some items that can be confiscated:¹⁹ objects that are related to the crime committed, whether in the form of tools used, or the results of the crime and other objects that are related to the crime. Objects that can be confiscated in accordance with the provisions of Article 39 paragraph (1) of the Criminal Procedure Code can be categorized as evidence.²⁰

A final and binding court decision regarding a drug crime not only includes a prison sentence and a fine, but also a decision regarding whether the evidence will be

¹⁷Ismu Gunadi and Jonaedi Efendi, *Criminal Law*, Jakarta: Kencana, 2014, p. 35

¹⁸Tolib Effendi, *Comparative Criminal Justice System Components and Processes of Criminal Justice Systems in Several Countries*, Jakarta, Pustaka Yustisia, 2013, p. 153

¹⁹See Article 39 paragraph 1 of the Criminal Procedure Code

²⁰See Explanation of Article 46 of Law Number 8 of 1981 concerning Criminal Procedure Law

returned, destroyed, or confiscated for the benefit of the state. Therefore, the prosecutor, as the executor, is obligated to implement this decision.²¹

In the handling of narcotics crimes, evidence in the form of narcotics, whether in the prosecution or the judge's verdict, is largely confiscated and destroyed. The following are some examples of cases handled in narcotics crimes:²²

No	Decision	Defendant	Chapter	Decision Regarding Evidence
1.	Number 2/Pid.Sus/2025/PN Pwr Purworejo District Court	Faith Rohmadi Bin Amat Jumari	Article 112 paragraph (1) of Law No. 35 of 2009 concerning Narcotics	- 3.60254 grams (5 packages of crystal methamphetamine) Seized for destruction - 1 (one) red VIVO brand cellphone, type 1820 Confiscated for the State
2.	Number 409/Pid.Sus/2024/PN Bjb Banjarbaru District Court	Salamat aka Brother Selamat	Article 114 paragraph (2) of the Republic of Indonesia Law No. 35 of 2009 concerning Narcotics	36.36 gr (9 packets of crystal methamphetamine) Seized for destruction
3.	14/Pid.Sus/2025/PN Mlg Malang District Court	Roni Kurniawan	Article 114 paragraph (2) of Law No. 35 of 2009 concerning Narcotics	- 1009.5 grams of marijuana - 50.97 grams of crystal methamphetamine Seized for destruction - 1 (one) unit of black Samsung brand cellphone Seized for destruction
4.	23/Pid.Sus/2024/PN Lbj Labuan Bajo District Court	Hendra et al.	Article 112 paragraph (1) in conjunction with Article 132 of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics	0.55 grams of crystal methamphetamine Seized for destruction - 1 (one) Samsung Galaxy A10 brand cellphone, blue color Confiscated for the State
5.	143/Pid.Sus/2024/PT.Kpg Kupang High Court	Suhartika alias Caca alias Wulan Jo	Article 114 paragraph (1) Jo. Article 132 Republic of Indonesia Law	0.2971gr (2 packages of crystal methamphetamine) Confiscated for the State

²¹Hanadi, "Analysis of Judge's Decision Number: 113/Pid.B/2007/Pn.Pml Concerning the Crime of Narcotics Abuse," Journal of Legal Dynamics," <http://dinamikahukum.fh.unsoed.ac.id/index.php/JDH/article/view/131/79>. p. 5

²²Purworejo District Court Decision Number 2/Pid.Sus/2025/PN Pwr, Banjarbaru District Court Decision Number 409/Pid.Sus/2024/PN Bjb, Malang District Court Decision Number 14/Pid.Sus/2025/PN Mlg, Labuan Bajo District Court Decision Number 23/Pid.Sus/2024/PN Lbj, Kupang High Court Decision Number 143/Pid.Sus/2024/PT.Kpg Jo Labuan Bajo District Court Decision Number 11/Pid.Sus/2024/PN Lbj

11/Pid.Sus/2 024/PN Lbj Labuan Bajo District Court	no. 35 of 2009 concerning Narcotics	1 (one) black Samsung Galaxy A04e brand cellphone Confiscated for the State
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That in several samples of the decisions above, the Panel of Judges in its consideration of the Decision on the evidence in the form of Narcotics that was confiscated for destruction with the following considerations "which has been used to commit a crime and is feared to be used to repeat the crime, it is necessary to determine that the evidence be destroyed" or "where the evidence is used to commit a crime, can damage health and to break the chain of narcotics distribution, it is necessary to determine that the evidence be destroyed". In several decisions, the author only found one decision that used considerations from the Narcotics Law, namely 143 / Pid.Sus / 2024 / PT.Kpg Kupang High Court Jo 11 / Pid.Sus / 2024 / PN Lbj Labuan Bajo District Court Suhartika Alias Caca Alias Wulan with evidence in the form of 0.2971gr (2 packages of crystal methamphetamine) Confiscated for the State.

In assessing evidence, both the prosecutor and the panel of judges will consider only the provisions of the Criminal Procedure Code (KUHP) as a reference in determining their decision based on the facts revealed during the trial. This will then be outlined in the verdict regarding whether the seized items will be returned, confiscated for destruction, or seized for the benefit of the state and for use in other cases.²³

Regulations regarding evidence in narcotics crime cases are expressly stipulated in specific laws, with the stipulation that "confiscated evidence belongs to the state" without any other option. This is in accordance with the provisions of Article 136 of Law Number 35 of 2009 concerning Narcotics.

Handling of special narcotics crimes related to evidence is treated specifically and in a limited manner in the provisions of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics starting from the investigation stage to the execution stage, in which there are special provisions in the investigation stage, namely in the provisions of Article 91, namely "for the purposes of proving the case, the interests of developing science and technology, the interests of education and training, and/or destroyed".

Regarding the implementation of decisions regarding narcotics evidence, this has been specifically regulated in the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics. This law functions as a more specific regulation that overrides more general provisions, namely the Criminal Procedure Code, thus implementing the principle of *Lex Specialis Derogat Legi Generali*. However, in

²³Article 46 paragraph (2) of the Criminal Procedure Code

practice in the field, often evidence in the form of narcotics is confiscated and then destroyed, while the judge's considerations do not consider Article 101 and Article 136 of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics. From a normative perspective, the question arises whether the act of confiscating narcotics evidence that is destroyed meets the criteria of legal certainty and benefit, considering that there are special provisions that regulate this matter.

According to HD Stoud, authority refers to the entire norm relating to the acceptance and application of government power by individuals or public legal entities in the context of public law.²⁴ Every action using authority must have a legitimate basis in positive law to avoid arbitrary action. Therefore, based on this understanding, the Prosecutor's Office has the authority to execute evidence in a case as mandated by law, including the Prosecutor's Office Law, the Criminal Code, and the Criminal Procedure Code.

From the perspective of the legal system theory outlined by Friedman, there are three elements or subsystems in the legal system, which consist of structural components, legal substance, and legal culture.²⁵ Therefore, structurally, the Prosecutor's Office plays a role as an executive institution that carries out its duties as an implementer, based on existing regulations as legal substance that aims to shape the mindset of the community to be able to increase legal awareness so that a positive legal culture is formed.

The prosecutor's office's role in executing the seizure of evidence in narcotics cases for the state is a responsibility that must be carried out in accordance with court decisions. This reflects the proper functioning of the law. Therefore, the principle of *Lex Specialis Derogat Legi Generali* can be applied, ensuring that the objectives of the law, including justice, legal certainty, and legal utility, are optimally achieved.

Based on the above understanding, is it related to the law enforcement of narcotics crime cases in which the verdict, especially regarding evidence, has been confiscated for destruction and does not consider the specific provisions of the goods related to the narcotics evidence confiscated for the State. If seen from the judge's considerations, which in these considerations do not consider the provisions in the Narcotics Law specifically regarding evidence but only consider based on the Criminal Procedure Code where the evidence is used to commit crimes, can damage health and to break the chain of narcotics distribution, then it is necessary to determine that the evidence is destroyed. That the purpose of the Panel of Judges is to break the chain of narcotics distribution with concerns that it will circulate again in the community if otherwise stipulated so that sociologically

²⁴Stout HD, 2004. *de Betekenissen van de wet*, in Irfan Fachruddin *Administrative Judicial Supervision of Government Actions*. Alumni. Bandung. P. 4

²⁵Lawrence M. Friedman, *The Legal System A Social Science Perspective*, Russell Sage Foundation, New York, 1975, p. 14

the purpose has been fulfilled, but if viewed from the application of the law that has been specifically regulated regarding narcotics evidence in the Narcotics Law, here the law enforcement officers do not implement these provisions so that law enforcement is not optimal because they do not implement the provisions of the legislation fully so that they have not been able to achieve legal certainty and benefits as mandated by the law.

There are several obstacles in executing evidence of narcotics crimes that have been confiscated for the state, both internal and external, namely as follows:

1) Internal Factors

Regarding evidence of narcotics crimes confiscated for the State, the prosecutor's office cannot immediately carry out the execution directly, but must collaborate with other agencies to assess evidence that has economic value, which requires a long time.

Specifically regarding narcotics evidence confiscated for the state, there are no specific regulations regarding the procedure for executing confiscated narcotics. The internal regulations of the prosecutor's office only regulate the execution of confiscated goods of economic value through auction, as stipulated in the provisions of the Attorney General's Guidelines Number 7 of 2025 concerning Asset Recovery within the Indonesian Attorney General's Office.

2) External Factors

In the case of auctions, the prosecutor's office cannot conduct them alone and must go through the State Assets and Auction Service Office (KPKNL), which can also be time-consuming, often months. Furthermore, if the items are not sold, the auction must be repeated. If the confiscated items are to be used, their use must be approved in writing by the Ministry of Finance, which also takes months. Similarly, the granting process to relevant agencies is quite lengthy, making execution difficult.

Moreover, particularly in the implementation of the execution of narcotics evidence confiscated for the state, there are no implementing regulations governing Article 136 of the Narcotics Law.

If law enforcement fails to implement the provisions of Article 136 of the Narcotics Law when handling narcotics cases, they will be deemed to have failed to uphold justice and legal certainty because they have not followed existing norms. However, if these provisions are implemented, they could pose obstacles for prosecutors as the implementers.

According to the author, considering that narcotics evidence has been regulated in a limitative manner in Article 91 of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics. Therefore, in order to create justice and legal

certainly, the author believes that there must be special implementing regulations regarding narcotics evidence that is confiscated for the State by making changes to the laws and regulations in this case the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics because according to the author, when in Article 1 there is a limitative limit on confiscated narcotics and narcotic precursors, the confiscated narcotics and narcotic precursors can be used as follows:

- a. for the purposes of proving the case
- b. interests in the development of science and technology, interests in education and training
- c. and/or destroyed.

However, Article 136 concerning evidence in the form of narcotics that is confiscated for destruction is not stated in the provision, but only contains a provision that all evidence of narcotics crimes is confiscated for the State. That the execution of evidence in the form of narcotics that is confiscated for the State, in which the provisions stipulate that the Prosecutor as the executor must immediately carry out the execution, but because there are no regulations governing it, the implementation of the execution is hampered.

3.2. Implementation of Execution of Evidence of Narcotics Crimes Confiscated for the State Based on Benefit Value

Law Apart from justice and legal certainty, the third aim of law is benefit, so these three aspects must be present in applicable legal regulations so that the legal objectives can be achieved.²⁶

The perfect fulfillment of these three aspects is mandatory in realizing the objectives of the law. The third objective of law, namely utility, is always associated with Jeremy Bentham's utilitarian theory. The term "The greatest happiness of the greatest number" is always identified as happiness determined by the number of people, so that the measure of the happiness of the majority determines how the law is formed. However, the term is more appropriately interpreted as a guarantee of individual happiness that must be provided by the state to its citizens and eliminate suffering for society through legal instruments, so that the benchmarks of these legal instruments are "happiness" and "suffering." Essentially, the concept of happiness determined by the majority was the most recent breakthrough when Jeremy Bentham outlined it in his time.

According to Jeremy Bentham, utility means that the existence of the state and law is solely for the sake of true benefit, namely the happiness of all the people.

²⁶Arief Sidharta, *Reflections on the Structure of Legal Science*, Second Edition, (Bandung: Mandar Maju, 2009), p. 39

This happiness should be felt by every individual in a nation. Bentham argued that the existence of the state and law is solely a tool to achieve this benefit.²⁷

Handling of evidence that has obtained permanent legal force can be carried out in several ways based on the decision, including:

1) Returned²⁸

If the evidence that is confiscated is found in the trial facts that the goods are the property of a person who has the right, not the property of the defendant to commit a crime as stipulated in Article 46 of the Criminal Procedure Code, then the evidence will be taken into consideration in the decision to be returned to the person entitled to it.²⁹

2) Confiscated for state interests or destroyed or damaged.

That related to evidence can also be decided to be confiscated for the State which is usually used for evidence of economic value or certain crimes such as narcotics, explosives and money laundering. Evidence confiscated for the state is handled by direct sale or auction, can also be used to become the Attorney General's own assets by determining the status of Use (PSP) and can be donated to other government agencies. However, there are some evidence confiscated for the state but cannot be traded through auction or direct sale such as goods that are prohibited from free circulation and are dangerous and cannot be owned publicly such as explosives can be handed over to the Ministry of Defense.³⁰ Meanwhile, the evidence that is confiscated for destruction is usually the tools used to commit crimes that have no economic value, such as knives used to stab victims.

3) Evidence is still needed in other cases.

In addition to being the executor of criminal cases and evidence, the Prosecutor's Office also has the task of recovering assets and managing evidence, which at the district attorney's office level is led by the Head of the Asset Recovery and Evidence Management Section (Kasi PAPBB). In handling evidence confiscated for the State, the Prosecutor's Office can carry out several methods in carrying out the execution, including:³¹

²⁷Teguh Prasetyo, 2012, *Philosophy, Theory, and Legal Science*, Jakarta, Raja Grafindo, pp. 111-112.

²⁸See Article 46 of the Criminal Procedure Code

²⁹Ratna Nurul Afiah, *Evidence in Criminal Proceedings*, (Jakarta: Sinar Grafika, 1988) p. 199

³⁰Article 45 paragraph (4) of the Criminal Procedure Code and its explanation

³¹See Article 1 Paragraph (8) of the Minister of Finance Regulation Number 96/PMK.06/2007 concerning Procedures for Implementing the Use, Utilization, Disposal and Transfer of State Property

a. Direct Sales

Direct sales can be carried out on certain confiscated objects or evidence, state confiscated objects, and/or executed confiscated objects with a fair value of up to IDR 35,000,000.00 (thirty-five million rupiah) and do not have ownership documents, direct sales can be carried out without going through the State Assets and Auction Service Office.³²In order to carry out direct sales, an assessment or appraisal of the value of the evidence must first be carried out, then the direct sales implementation must be scheduled and announced based on the principles of effectiveness, efficiency, transparency and accountability.³³

b. For Sale at Auction

Auction sales in the internal regulations of the Prosecutor's Office are regulated in guideline number 7 of 2025 concerning asset recovery within the Prosecutor's Office, in the implementation of which the Prosecutor's Office authorizes KPKNL (State Assets and Auction Service Office) with a fair value above IDR 35,000,000.00 (thirty-five million rupiah) and the auction proceeds will be deposited into the state treasury as Non-Tax State Revenue in the form of general revenue.³⁴

c. Determination of Use Status (PSP).

Determination of Use Status is the utilization of confiscated goods for the benefit of the Internal Agency in this case such as the Prosecutor's Office itself, for example, there is a vehicle, a method of managing confiscated goods carried out by the Indonesian Prosecutor's Office by using the confiscated goods to be utilized by Internal Agencies such as the Corruption Eradication Commission, BNN, the Prosecutor's Office itself and other Agencies. For example, there is evidence in the form of a car that is determined by Putusan which has permanent legal force to be confiscated for the State, then related to the evidence, the Prosecutor's Office can be used by the Prosecutor's Office itself as an operational vehicle by first proposing the Determination of Use Status (PSP) to the Minister of Finance to become an asset of the Prosecutor's Office.³⁵

d. Granted to Local Government Agencies.

A grant of confiscated goods is confiscated goods that have permanent legal force, where the evidence can be more useful if it is granted to the local government, for

³²Guideline Number 7 of 2025 concerning Asset Recovery within the Indonesian Attorney General's Office

³³Ibid

³⁴Regulation of the Minister of Finance Number 03/PMK.06/2011

³⁵See Article 15 paragraph (4a) of PMK Number 03/PMK.06/2011 concerning Management of State Property Originating from State Confiscated Goods and Gratification Goods

example, there is evidence in the form of a ship where the local government needs a ship for transportation considering that the area is an archipelago, so that the evidence can be granted to the local government agency by means of a proposal by the local Head of the District Attorney's Office to the Minister of Finance to determine the grant status of the evidence.³⁶

e. Destroyed

Evidence that is determined to be confiscated for the state, but in practice, the evidence cannot be auctioned or donated or its use status determined as explained above, then the confiscated goods can be destroyed, including:³⁷

1) "Confiscated State Goods other than land and/or buildings which:

a. May endanger the environment or trade systems in accordance with statutory regulations;

b. Economically, it has a lower value than the costs that would have to be incurred if an auction process were undertaken;

c. Prohibited from general circulation in accordance with statutory provisions; or

d. Based on the considerations of the Prosecutor's Office and/or the Corruption Eradication Commission, it is not necessary to sell it by auction.

2) State confiscated goods in the form of land and/or buildings which:

a. Has been in a rotten or decayed condition; or

b. Has the potential to rot quickly or rot quickly."

Regarding evidence from narcotics crimes confiscated for the benefit of the state, such items originate from the proceeds of crime or are tools used by the perpetrators and have economic value. Therefore, if these items are confiscated for the state and then sold directly or auctioned, it can contribute to increasing Non-Tax State Revenue (PNBP) within the scope of the Attorney General's Office.

In the field, the fact is that so far, narcotics evidence in the form of narcotics has been confiscated for destruction, where in the judge's considerations, there has been no consideration of Article 101 and Article 136 of Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics. In terms of norms, can it be said that the confiscation of narcotics evidence for destruction can fulfill legal certainty and benefit considering that there are special regulations governing it.

³⁶See Article 15 paragraph (4b) of PMK Number 03/PMK.06/2011 concerning Management of State Property Originating from State Confiscated Goods and Gratification Goods.

³⁷Ibid. Article 15 paragraph (4c) to paragraph (5)

Furthermore, Article 7 explains that "Narcotics can only be used for health services and/or the development of science and technology."³⁸In healthcare, narcotics can be used for treatment and therapy in medical rehabilitation. Furthermore, narcotics are useful in training and education for law enforcement officers, particularly in efforts to eradicate drug crimes, including introductions to types of narcotics and training for drug-sniffing dogs.³⁹

The use of narcotics evidence can be handed over to the Ministry of Health for the development of science and technology in the health sector and can also be used for training law enforcement teams. Therefore, according to the author, narcotics evidence seized for the state is not for direct sale or auction, as is the case with other evidence of economic value.

According to the author, the implementation of special executions related to evidence in the form of narcotics confiscated for the State based on the provisions of Articles 136 and 101 should refer back to Article 91 which regulates the allocation of evidence so that it can be used for the benefit of health services and/or the development of science and technology.

4. Conclusion

That the prosecutor's office as the controller of the case process (*Dominus Litis*) and the executor of criminal decisions (*executive ambtenaar*) against the Court's decision that has obtained legal force against the convict and evidence. Utilization of the execution of evidence of Narcotics crimes confiscated for the State can be done through direct sales or auctions so that it can increase state revenue and If the execution is carried out by determining the utilization status and handed over to government agencies, this will provide benefits for the interests of the agency. However, for evidence in the form of Narcotics confiscated for the state, it will not be sold directly or through auctions like other evidence that has economic value so that the implementation of special execution regarding Narcotics evidence taken for the State must refer back to Article 91 so that it can be used for the benefit of health services and / or the development of science and technology. It is hoped that there will be an understanding between law enforcement officers, especially in determining evidence related to narcotics crimes, so that the process can be carried out in accordance with existing norms to provide justice, certainty, and legal benefits.

³⁸Article 7 of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics

³⁹Explanation of Article 7 of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics

5. References

Journals:

Ahmad Firmanto Prasedyomukti and Rakhmat Bowo Suharto, *The Role of Judicial Commission on Supervision of Judge's Crime in Indonesia*, Jurnal Daulat Hukum Volume 1 Issue 4 December 2018, url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/3931/2793>

Andri Winjaya Laksana, *Pelaksanaan Pemeriksaan Terhadap Pelaku Penyalahgunaan Narkotika Dengan Sistem Rehabilitasi di Badan Nasional Narkotika Propinsi Jawa Tengah*, Jurnal Pembaharuan Hukum Volume III No. 2 Mei - Agustus 2016

Andri Winjaya Laksana, *Tinjauan Hukum Pemidanaan Terhadap Pelaku Penyalahgunaan Narkotika Dengan Sistem Rehabilitasi*, Jurnal Pembaharuan Hukum Volume II No. 1 Januari - April 2015

Hanadi, "Analisis Putusan Hakim Nomor: 113/Pid.B/2007/Pn.Pml Tentang Tindak Pidana Penyalahgunaan Narkotika," Jurnal Dinamika Hukum," <http://dinamikahukum.fh.unsoed.ac.id/index.php/JDH/article/view/131/79>.

Inten Kuspitarsi And Umi Rozah, "Peran Kejaksaan Sebagai Eksekutor Pidana Mati Di Indonesia," Diponegoro Law Journal, Vol. 6, (2017): 1-16, <https://Media.Neliti.Com/Media/Publications/163074-Id-Peran-Kejaksaan-Sebagai-Eksekutor-Pidana.Pdf>.

Nurhadianto, "Internalisasi Nilai-Nilai Pancasila Dalam Upaya Membentuk Pelajar Anti Narkoba," Jurnal Pendidikan Ilmu Sosial, vol. 23, (2014): 44-54, <https://ejournal.upi.edu/index.php/jpis/article/view/1618>.

Sulaiman Nandihanta Rezzi Suharso, Andri Winjaya Laksana, *Peran Dan Fungsi Jaksa Dalam Pelaksanaan Pemusnahan Barang Bukti Penyalahgunaan Narkotika di Kota Semarang*, Prosiding KONFERENSI ILMIAH MAHASISWA UNISSULA (KIMU) 3 Universitas Islam Sultan Agung Semarang, 28 Oktober 2020

Tommy Busnarma, "Penerapan Sanksi Pidana Denda Terhadap Pelaku Tindak Pidana Penyalahgunaan Dan Peredaran Gelap Narkotika Di Pengadilan Negeri Padang," Soumater Law Review 2, no. 1 (May 1, 2019): 172-192, <https://doi.org/10.22216/soumlaw.v2i1.3559>.

Books:

Adami Chazawi, 2007 *Pelajaran Hukum Pidana 1*, PT. Raja Grafindo, Jakarta;

Andi Hamzah, 1996 *Hukum Acara Pidana Indonesia*, Sinar Grafika, Jakarta;

- Ismu Gunadi dan Jonaedi Efendi, 2014, *Hukum Pidana*, Kencana, Jakarta;
- Lawrence M. Friedman, 1975 *Sistem Hukum Perspektif Ilmu Sosial (The Legal System A Social Science Perspective)*, Russel Sage Foundation, New York;
- M. Yahya Harahap, 2000, *Pembahasan Permasalahan Dan Penerapan KUHAP (Pemeriksaan Sidang Pengadilan, Banding, Kasasi, Dan Peninjauan Kembali)*, Sinar Grafika, Jakarta;
- Ratna Nurul Afiah, 1988, *Barang Bukti Dalam Proses Pidana*, Sinar Grafika, Jakarta
- Stout HD, 2004. *de Betekenissen van de wet, dalam Irfan Fachruddin Pengawasan Peradilan Administrasi terhadap Tindakan Pemerintah*. Alumni. Bandung
- Sulaiman Nandihanta Rezzi Suharso dan Andri Winjaya Laksana, Peran Dan Fungsi Jaksa Dalam Pelaksanaan Pemusnahan Barang Bukti Penyalahgunaan Narkotika Di Kota Semarang, Prosiding Seminar Nasional KONFERENSI ILMIAH MAHASISWA UNISSULA (KIMU) 3 Universitas Islam Sultan Agung Semarang klaster Hukum, 28 Oktober 2020, ISSN. 2720-913X
- Teguh Prasetyo, 2012, *Filsafat, Teori, dan Ilmu Hukum*, Raja Grafindo, Jakarta;
- Tolib Effendi, 2013, *Sistem Peradilan Pidana Perbandingan Komponen dan Proses Sistem Peradilan Pidana di Beberapa Negara*, Pustaka Yustisia, Jakarta;

Regulation:

- The 1945 Constitution of the Republic of Indonesia;
- Criminal Code;
- Criminal Procedure Code;
- Law of the Republic of Indonesia Number 11 of 2021 concerning Amendments to Law of the Republic of Indonesia Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia;
- Law Number 35 of 2009 concerning Narcotics.
- Government Regulation of the Republic of Indonesia Number 40 of 2013 concerning the Implementation of Law Number 35 of 2009 concerning Narcotics
- Regulation of the Minister of Finance Number 96/PMK.06/2007 Concerning Procedures for Implementing the Use, Utilization, Disposal, and Transfer of State-Owned Assets

Regulation of the Minister of Finance Number 03/PMK.06/2011 concerning Management of State Property Originating from State Confiscated Goods and Gratification Goods

Attorney General's Guideline Number 7 of 2025 concerning Asset Recovery within the Indonesian Attorney General's Office

Court ruling:

Purworejo District Court Decision Number 2/Pid.Sus/2025/PN Pwr

Banjarbaru District Court Decision Number 409/Pid.Sus/2024/PN Bjb

Malang District Court Decision Number 14/Pid.Sus/2025/PN Mlg

Labuan Bajo District Court Decision Number 23/Pid.Sus/2024/PN Lbj

Decision of the Kupang High Court Number 143/Pid.Sus/2024/PT.Kpg Jo Labuan Bajo District Court Number 11/Pid.Sus/2024/PN Lbj