

The Juridical Analysis of Investigation Process of Narcotics Trafficking

Ardika Nur Setiawan*)

*) Faculty of Law, Universitas Islam Sultan Agung Semarang, Indonesia, E-mail: holicdika28@gmail.com

Abstract. *The purpose of this research is to know and analyze the juridical analysis of the process of investigating criminal acts of narcotics distribution. To know and analyze the investigation formulation for narcotics crimes in the future. This legal research is normative juridical. This legal study uses several approaches, including statutory approaches, conceptual approaches. The research specifications used in this study are analytical descriptive. The type of data used is secondary data. Data analysis used in this research is using descriptive qualitative method. The results of this study are Juridical Analysis of the Process of Investigating the Criminal Act of Narcotics Circulation carried out by Police investigators as well as concrete as stated in the Criminal Procedure Code which includes processes including: (1) Summons, (2) Arrest (3) Detention (4) Search (5) Confiscation (6) Letter Examination. Future Investigation Formulations for Narcotics Crimes by removing the procedure, you must obtain permission from the Chair or Deputy Chairperson of the District Court in determining that sufficient initial evidence has been obtained or obtained, because this hinders the performance of law enforcement officials in eradicating narcotic crime. The concept of the Criminal Procedure Code Bill which gave rise to pros and cons at the formulation stage so that some groups rejected the draft revision of the Criminal Procedure Code, therefore a review of Article 38 of the Criminal Procedure Code is needed to avoid conflict.*

Keywords: *Crime; Investigation; Narcotics.*

1. Introduction

The State of Indonesia is a country of law, this is clearly emphasized in the provisions of Article 1 paragraph Indonesia of 1945 which upholds human rights

and guarantees every citizen in the field of law and government.¹ The implementation of this article must reflect legal certainty for the state.² Law in general is the whole set of rules or rules in a common life, the whole rules of behavior that apply in a sanction.³ Criminal law is part of the overall law in force in a country.⁴ As one of the developing countries, Indonesia is a very potential target as a place to produce and distribute narcotics illegally.

Every individual in social life is always regulated by law, both customary law and positive law because law is able to create peace and order in social life. The purpose of this law is in line with the goals of national development contained in the 1945 Constitution, namely to protect the entire nation of Indonesia and all of Indonesia's bloodshed to promote public welfare, educate the nation's life and participate in carrying out world order based on freedom, eternal peace and social justice.

Narcotics addicts according to the law on the one hand are perpetrators of criminal acts of narcotics abuse is the existence of provisions in the narcotics law which regulate prison sentences given to perpetrators of narcotics abuse.⁵

The abuse and illicit traffic of narcotics is not new in Indonesia. Crime narcotics is a form of violation of law and violation of social norms that has existed forever and is very difficult for a country to eradicate.⁶

Narcotics crime which has long been an enemy of the nation, narcotics is now of great concern to our nation and all nations in the world today. The production and distribution of narcotics is so massive that they circulate in our society.⁷

Narcotics crimes have recently been defined as extraordinary crimes. Narcotics crimes that cannot be accommodated by the Criminal Code are then regulated in laws and regulations, namely Law Number 35 of 2009 concerning Narcotics. The entry of narcotics into a special crime that can threaten the sovereignty of the state, as well as threaten the nation's generation to make the country destroyed

¹ M. Hamdan, 1997, *Politics of Criminal Law*, Rineke Grafindo Persada, Jakarta, h. 1.

² Prodjodikoro and Wirjono, 1969, *Principles of Indonesian Criminal Law*, Ertesko, Jakarta, p 72.

³ Sudikno Mertokusumo, 1991, *Know the Law, Liberty*, Yogyakarta, p. 38.

⁴ Moeljatno, 2002, *Principles of Criminal Law*, Rineka Cipta, Jakarta, p. 1.

⁵ Hera Saputra, Munsyarif Abdul Chalim, 2018, *Application of the Penal System for Actors of Narcotics Abuse (Case Study in Central Java Regional Police)*, *Journal of Daulat Hukum*, Vol. 1.No. 1, Unissula, p. 167

⁶ Septian Nanang Pangestu and Lathifah Hanim, 2021, *The Role of Prosecution Related to Prosecutor's Demand in Enforcing the Criminal Action of Narcotics*, *Daulat Hukum Journal*, Volume 4 Issue 1, Unissula, h. 43

⁷ Angga Dwi Susanto, Sri Endah Wahyuningsih and Siti Rodhiyah Dwi Istinah, 2022, *The Optimization of Criminal Sanctions against Drug Users in Judicial Processes*, *Ratio Legis Journal* Volume 1 Number 3, Unissula, p. 253

because its citizens become uncontrolled, abuse of narcotics can lead to a dependency syndrome. The abuse of narcotics encourages the circulation of narcotics itself, while the illicit traffic of narcotics causes an increase in users or users of narcotics themselves.

Investigation is the most important part of the Criminal Procedure Code, which in its implementation often has to offend individual dignity, which is sometimes considered mandatory. The important motto in the Criminal Procedure Code is that the nature of criminal investigations is to clarify matters and at the same time prevent innocent people from taking action that must be borne by them. Therefore, the investigative process carried out by investigators often takes a long time, is tiring and can also cause psychological distress, trying to stop the investigation.⁸

The criminal provisions in law number 35 of 2009 concerning narcotics stipulate strict legal sanctions for anyone who distributes, offers to sell, buys, receives, becomes an intermediary in buying and selling, exchanging, or handing over narcotics class I, in the law number 35 of 2009 concerning narcotics with Article 114 paragraph (1), shall be subject to imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years or shall be punished with death penalty, life imprisonment, with a minimum fine of IDR 1,000 000,000.00 (one billion rupiah) and a maximum of IDR 10,000,000,000.00 (ten billion rupiah). In paragraph (2) it is explained that the acts of offering for sale, selling, buying, intermediary in buying and selling, exchanging, handing over,

Indiscriminate use of narcotics is seen as a form of crime, because it has the potential to cause health problems and even death. Based on this, in the international and national spheres, ultimately viewing narcotics as a crime, it is necessary to make efforts to prevent and overcome them.⁹

The purpose of this research is to know and analyze juridical analysis of the process of investigating criminal acts of narcotics distribution. To know and analyze investigation formulation for narcotics crimes in the future.

2. Research Methods

This legal research is normative juridical. This legal study uses several approaches, including statutory approaches, conceptual approaches. The research specifications used in this study are analytical descriptive. The type of data used is

⁸Rudiana and Bambang Tri Bawono, 2022, The Investigation Process of Drug Criminal Actions by Police Investigators, Ratio Legis Journal, Volume 1 Number 2, Unissula, h. 147

⁹Bambang Tri Bawono and Gunarto, 2022, The Law Enforcement Against Narcotics Criminal Actions Who Should Be On Rehabilitation, Journal of Legal Reform, Volume 9, Number 1, Unissula, h. 80

secondary data. Data analysis used in this research is using descriptive qualitative method.

3. Result and Discussion

3.1. Juridical Analysis of Investigation Process of Narcotics Trafficking

Narcotics abuse is a serious problem that has long existed in various countries, both in developed countries and in developing countries like Indonesia. Today Narcotics abuse is a very serious problem in various circles of society and the government. Abuse in the use of Narcotics is the use of drugs or dangerous substances with the aim not for treatment and research and are used without following the rules or the correct dosage so that it can damage the user. Narcotics can also provide enormous profits for dealers so that this crime is often committed.¹⁰

The increase in crime in Indonesia has resulted in the emergence of various kinds of modus operandi in the occurrence of criminal acts, one of which is narcotics. Narcotics are substances that can cause certain effects on those who use them, namely by injecting them into the body.¹¹

The general elucidation of the Law of the Republic of Indonesia Number 35 of 2009 Concerning Narcotics (hereinafter abbreviated as the Narcotics Law) has a wider scope both in terms of norms, scope of material and aggravated criminal threats. This wider coverage is not only based on the factors above but also due to the development of needs and the fact that the values and norms in the applicable provisions are no longer sufficient as an effective means of preventing and eradicating the abuse and illicit traffic of narcotics. One of the new materials in the Law of the Republic of Indonesia Number 35 of 2009 (hereinafter abbreviated as the Narcotics Law), namely the distribution of narcotics is divided into 3 (three) groups,¹²

Regarding narcotics crimes, the Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code is as follows:

Article 609

- (1) Everyone who without rights owns, keeps, controls, or provides:

¹⁰ Lydia Harlina Martono, 2016, Counteracting Narcotics and Violence, Balai Pustaka, Jakarta, h. 43

¹¹ Moh. Taufik Makarao, et al, 2005, Narcotics Crime, Ghalia Indonesia, Bogor, h. 16.

¹² Atmasamita, Romli, 2012, Transnational Narcotics Crime in the Indonesian Criminal Law System, Citra Aditya Bakti, Bandung, h. 4

- a. Narcotics Category I are not plants, 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 category IV and a maximum of category VI;
 - b. Narcotics Category II, shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 10 (ten) years and a minimum fine of category IV and a maximum of category VI; And
 - c. Narcotics Category III, shall be punished with imprisonment for a minimum of 2 (two) years and a maximum of 7 (seven) years and a minimum fine of category IV and a maximum of category VI.
- (2) In the event that the actions referred to in paragraph (1) are committed against:
- a. Narcotics Category I non-plants weighing more than 5 (five) grams shall be subject to imprisonment for life or imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years and a fine of at least category V and maximum category VI ;
 - b. Narcotics Category II weighing more than 5 (five) grams shall be subject to imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a minimum fine of category V and a maximum of category VI; And
 - c. Narcotics Category III weighing more than 5 (five) grams shall be subject to imprisonment for a minimum of 3 (three) years and a maximum of 10 (ten) years and a minimum fine of category V and a maximum of category VI.

Article 610

- (1) Everyone who without the right to produce, import, export or distribute:
- a. Narcotics Category I shall be punished with imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a minimum fine of category IV and a maximum of category V;
 - b. Narcotics Category II shall be punished with imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years and a minimum fine of category IV and a maximum of category V; And
 - c. Narcotics Category III shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 10 (ten) years and a minimum fine of category IV and a maximum of category V.
- (2) In the event that the actions referred to in paragraph (1) are committed against:
- a. Narcotics Category I in the form of plants weighing more than 1 (one) kilogram or more than 5 (five) tree trunks, or Narcotics Category I not plants weighing more than 5 (five) grams shall be punished with death

penalty, life imprisonment or imprisonment a minimum of 5 (five) years and a maximum of 20 (twenty) years and a minimum fine of category V and a maximum of category M;

b. Narcotics Category II weighing more than 5 (five) grams shall be punished with death penalty, life imprisonment, or imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years and a fine of at least category V and a maximum category VI; And

c. Narcotics Category III weighing more than 5 (five) grams shall be subject to imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years and a minimum fine of category V and a maximum of category VI.

Article 611

Provisions regarding the classification and amount of narcotics refer to the law governing narcotics.

The most prioritized law enforcement in Indonesia is criminal law enforcement where the criminal regulates prohibiting and imposing sanctions on law actors. Criminal law enforcement is expected to be a deterrent factor against the spread of narcotics trade, but in reality it is even more intensive law enforcement is increasing as well trafficking in narcotics and psychotropics,¹³ which means that there needs to be special attention to narcotic crimes.

Narcotics crime can be controlled so laws and various regulations are made to be able to control Narcotics crime. To study more deeply about the process of investigating narcotics crimes, it is necessary to classify laws and regulations with the investigative process contained therein where there is a relationship with one another so that it can be seen how the investigation process is in each legislation and what is the difference in terms of the process of investigating narcotics crimes in the pre-pandemic period with the pandemic period.

Based on Article 1 point 6 of Law Number 35 of 2009 concerning narcotics (the Narcotics Law) the illicit traffic of narcotics and narcotics precursors is any activity or series of activities carried out without rights or against the law which is determined as a crime of narcotics and narcotics precursors. Article 38 of the Narcotics Law further stipulates that every narcotics distribution activity must be accompanied by valid documents. Therefore, in the absence of valid documents, the distribution of narcotics and narcotic precursors is considered as illicit traffic.

The process of investigating a narcotics crime case is a system or method of

¹³ Siswanto Sunarto, 2004, Psychotropic Law Enforcement in Legal Sociological Studies, Rajagrafindo Persada, Jakarta, h. 7

investigation carried out to search for and collect evidence with that evidence to shed light on the crime that occurred and to find the suspect in accordance with the method set out in the Criminal Procedure Code.¹⁴

Investigations into the illicit traffic of narcotics and narcotics precursors are carried out based on statutory regulations, unless otherwise stipulated in this law. One of the investigators for narcotics crimes came from elements of the Police. This is as stipulated in Article 1 point (1) of the Criminal Procedure Code which reads "An investigator is an official of the Republic of Indonesia police or certain civil servant officials who are given special authority by law to carry out investigations".

As a deterrent effect on perpetrators of illicit traffic of narcotics and narcotics precursors, the Narcotics Law regulates aggravating criminal sanctions, both in the form of special minimum sentences, 20 (twenty) years imprisonment, and death penalty. The criminal weighting is carried out based on the class, type, size, and amount of narcotics. For narcotics dealers, there are at least 6 articles in the Narcotics Law that carry the death penalty.

Another motive related to narcotics abuse (dealers, couriers, users and addicts) is psychologically related to the wrong aspect of self-identity. Self-identity is related to the recognition of self-esteem from the social environment which according to most people as the accumulation of the negative effects of narcotics can boost high self-esteem as part of modern society. Self-satisfaction creates a stigma that by being part of narcotics activities, they have personal and social satisfaction, so that their self-esteem becomes high.¹⁵

Based on the foregoing, the Juridical Analysis of the Investigation Process for Narcotics Trafficking by Police investigators is also concrete as stated in the Criminal Procedure Code which includes processes including: (1) Summons, (2) Arrest (3) Detention (4) Search (5) Confiscation (6) Examination of Letters.

3.2. Future Investigation Formulations for Narcotics Crimes

The problem of overcoming crime in society, of course, cannot be separated from the context of discussing criminal politics. The meaning or definition of criminal politics itself, according to Sudarto, is the rational effort of society in overcoming crime. Efforts to overcome this crime, can be penal and non-penal. Penal crime prevention efforts, which are carried out through the steps of formulating criminal law norms, which contain substantive, structural and cultural elements of the

¹⁴ Andi Tentri Wali Putri Destiny Patarai. 2013, Investigation Process of Narcotics Abuse Crime. Article in "Journal of Criminal Procedure Law". No.1. h. 66

¹⁵ <http://www.detik.com./punk-compulsive-image.html>

society where the criminal law system is enforced.

The Indonesian National Police as law enforcement against narcotics abuse has taken many actions against narcotics control in Indonesia. As law enforcement, Polri is expected to be able to prevent and deter the spread of narcotics trafficking and its abuse.

Investigation and investigation of narcotics crimes related to the techniques used include supervised delivery, covert buying techniques, opening and examining every consignment that is suspected of having a connection with narcotics cases, as well as the authority to wiretapping conversations via telephone or other means of communication related to narcotics crimes. Handling of narcotics is a case that takes precedence over other cases to be submitted to court for examination and resolution as soon as possible.¹⁶

Future Investigation Formulations for Narcotics Crimes by removing the procedure, you must obtain permission from the Chair or Deputy Chairperson of the District Court in determining that sufficient initial evidence has been obtained or obtained, because this hinders the performance of law enforcement officials in eradicating narcotic crime. The concept of the Criminal Procedure Code Bill which raised pros and cons at the formulation stage so that some groups rejected the draft revision of the Criminal Procedure Code, therefore a review of Article 38 of the Criminal Procedure Code is needed to avoid conflict.

4. Conclusion

Based on the discussion that has been previously described, it can be concluded as follows: Juridical Analysis of the Investigation Process of Narcotics Trafficking by Police investigators is also concrete as stated in the Criminal Procedure Code which includes processes including: (1) Summons, (2) Arrests (3) Detention (4) Search (5) Seizure (6) Examination of Letters. Formulation of an Investigation for Future Narcotics Crimes by removing procedures must obtain permission from the Head or Deputy Chair of the District Court in determining that sufficient initial evidence has been obtained, because this hinders the performance of law enforcement officials in eradicating narcotics crimes. The concept of the Criminal Procedure Code Bill which raised pros and cons at the formulation stage so that some groups rejected the draft revision of the Criminal Procedure Code.

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¹⁶Sunarso Siswontoro, 2004, Psychotropic and Narcotics Law Enforcement, Raja Grafindo Persada, Jakarta, h. 95.

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