

Criminal Liability of The Performers Criminal Acts of Abuse Gorilla Tobacco Narcotics

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Abstract. The background of one type of narcotics circulating in Indonesia is gorilla tobacco. Gorilla tobacco or synthetic marijuana is a mixture of herbs or a mixture of tobacco sprayed with a synthetic chemical that produces a psychoactive effect resembling the psychoactive effect of cannabis. The approach used is the Legislative Approach using library research. The data collection technique is in the form of secondary data. To obtain primary data and analyze using qualitative analysis methods. This study indicates that eradication has not been maximized because there are still many distributions and users of narcotics, especially gorilla tobacco, especially among students, students, laborers, or fishers. The form of criminal responsibility for the defendant's actions has complied with Article 114, paragraph 1 of Law 35 of 2009 concerning narcotics.

Keywords: Criminal Act; Narcotics; Gorrila Tobacco

1 Introduction

The development of the use of narcotics is increasing and not for medicinal purposes or scientific purposes, intending to obtain huge profits. The above objectives are achieved through the traffic of illegal narcotics trade, both transnational and international transactions. International transactions are cross-border transactions between two or more countries, while international transactions are forms of transactions that are global in both scope and network.[1]

Threats and dangers of the development of narcotics on public health can occur as a side effect of continuous and unsupervised use of narcotics if treatment and prevention are not immediately carried out, causing dependence effects, both physical and psychological dependence, which is very strong on its use. The negative consequences mentioned above are the joint responsibility of all countries to overcome them. This responsibility has become an integral part of the life of modern society; it can even be stated that no country in the world intends to protect criminal acts in general and, in particular, narcotics crimes so that they escape the reach of the law.[2]

Enactment of Law No. 35 of 2009 concerning Narcotics, Types of Psychotropics Groups I, II, and III as expressed in the Attachment of Law no. 5 of 1997 concerning Psychotropics has been moved to Narcotics Category I as per the Narcotics Law no. 35 of 2009 and the Appendix regarding the types of Psychotropic Groups I, II, and III in Law no. 5 of 1997 concerning Psychotropics was repealed and declared invalid.[3] Then what is no less attractive is the discovery of several article formulations that indirectly try to attach the status of the victim to

the perpetrators of certain narcotics crimes, such as narcotics addicts. Narcotics addicts classified as narcotics abusers in group 1 meet the qualifications as perpetrators of narcotics crimes, but narcotics addicts will be more positioned toward victims in certain circumstances.

One type of narcotics circulating in Indonesia is gorilla tobacco. Gorilla tobacco or synthetic marijuana is a herbal concoction or mixture of tobacco sprayed with a synthetic chemical whose results resemble the psychoactive effects of cannabis. Users do not know exactly what ingredients are mixed in it. Synthetic marijuana is a substance that can be very dangerous and addictive. The effects of synthetic marijuana can threaten human life, such as 1. Feelings of extreme pleasure (euphoria); 2. Paranoid delusions (excessive fear or suspicion); 3. Temporary numbness throughout the body (such as being hit by a gorilla); 4. Hallucinations (psychotic disorders); 5. Coma to Death.[4]

Gorilla tobacco, also called super tobacco, is usually mixed with cigarette tobacco, rolled like using marijuana, and then smoked. And the effects can be in the form of hallucinations, extreme pleasure, and dependence (addictive).[5] Even some who are not strong enough to withstand the effects can experience vomiting and blackout. According to the Head of Public Relations of the National Narcotics Agency, Priadi, Narcotics of the gorilla tobacco type are already officially narcotics. This is under the Regulation of the Minister of Health (Permenkes) Number 50 of 2010 concerning Changes in the Classification of Narcotics so that tobacco gorilla stenosis dealers or users can be punished under Law Number 35 of 2009 concerning Narcotics.

In-Law Number 35 of 2009 concerning Narcotics Article 1 section 1 states: "Opiates are substances or medications got from plants or non-plants, both manufactured and semisynthetic, which can cause a reduction or change in awareness, loss of taste, separate to wipe out taste. Agony can cause reliance, separated into bunches as appended to the law.

The punishment for the use of synthetic marijuana or gorilla tobacco as regulated in Law Number 35 of 2009 concerning Narcotics Article 111 paragraph 1 states: "Every person who without rights or carries out the law plant, maintain, possess, store, control or provide narcotics class 1 in forms of plants shall be punished with a minimum imprisonment of 4 (four) years and a maximum of twelve years and a minimum fine of Rp. 800,000,000 and a maximum of Rp. 8,000,000,000".

Every criminal act will lead to criminal liability for the perpetrator. To conclude that the perpetrator is responsible for his actions, law enforcement must be guided by the Criminal Procedure Code (KUHP) as the formal criminal law that regulates the procedure. The objectives of the criminal procedure law in the Guidelines for the Implementation of the Criminal Procedure Code issued by the Minister of Justice are as follows:

The reason for the criminal system regulation is to look for and get or possibly approach the material truth, specifically the total reality of a lawbreaker case, by applying the arrangements of the criminal methodology regulation genuinely and precisely to figure out who the culprits can be accused of disregarding the law, and further solicitation to inspect and 5 choices from the court to see if it is demonstrated that a crook act has been perpetrated and whether the individual charged can be accused.

2 Research Methods

The kind of examination utilized is standardizing juridical, a methodology in view of the essential legitimate material by analyzing hypotheses, ideas, lawful standards, and regulations and guidelines connected with this exploration.[6] This approach is otherwise called the library approach, by concentrating on books, regulations, guidelines, and other related records.

According to Sugiono, the descriptive-analytical method is a method that functions to describe or provide an overview of the object under study through data or samples that have been collected as they are without analyzing and making conclusions that apply to the public.[7]

The statutory approach is research that prioritizes legal materials in the form of laws and regulations as primary reference material in conducting research. Library research, namely carried out using literature (library) in the form of books, notes, and reports of research results from a previous study.

3 Results and Discussion

3.1 Criminal Accountability of Criminals of Narcotics Misuse of Tobacco Types Gorilla

A criminal imposition is a form of accountability for criminal acts carried out to achieve the purpose of punishment, the purpose of sentencing is known by three theories, namely in the form of retaliation, as a means of preventing future crimes, and as a form of retaliation as well as an effort to prevent crime and improve criminals. Culpability principle error Accerror depends on a monodualistic balance that the guideline of mistake in view of the worth of equity should be adjusted two by two with the rule of lawfulness in light of the worth of sureness. Albeit the idea depends on the rule that criminal risk depends on blunder, now and again, it doesn't preclude the chance of a substitute for vicarious responsibility and severe liability..[8] The issue of mistake, both mistake in regards to the circumstance, blunder reality, and blunder with respect to the law, is under the idea of the generous explanation. The culprit isn't rebuffed except if the blunder is to be faulted.

Van Hammel stated that accountability is an ordinary condition and mental development that brings three sorts of capacities: a. Grasping the significance and outcomes of his activities; b. Understanding that his activities are not legitimized or denied by society; c. He was deciding the capacity of those actions so that it can be concluded that accountability contains the meaning of ability and skill.[9]

Criminal responsibility is applied to punishment, which plans to forestall the commission of criminal demonstrations by implementing legitimate standards for safeguarding the local area, settling clashes brought about by criminal demonstrations, reestablishing harmony, acquiring a feeling of harmony society, mingling the convicts by directing training so they become great individuals and liberating the responsibility of the convict. The mistake comprises of two sorts, specifically purposeful or opzet and carelessness or culpa; as per the hypothesis of Indonesian criminal regulation, the will comprise of three sorts, in particular as follows:

objective, the culprit can be represented and effortlessly comprehended by the overall population. Assuming this expectation is in a lawbreaker act, the culprit should be dependent upon a crook sentence. With this planned reason, it implies that the culprit needs to accomplish the outcome, which is the principal justification behind the danger of this discipline; Deliberately, knowingly, this intentional certainty exists if the perpetrator, by his actions, does not aim to achieve the result that is the basis of the offense, but he knows very well that the result will surely follow the action; Deliberately consciously the possibility of this intentionality which is not accompanied by a shadow of a certainty that the result in question will occur, but only imagines a mere possibility of that result. The next step is negligence because it is a form of error that results in being held accountable for someone's actions.

Each of the factors that cause narcotics abuse can be explained as follows: 1) In terms of social interaction, young people have not been able to accept bad influences from outside. This can be a personal factor causing a child to commit a deviant behavior or delinquency act. At a young age, he tends to be more easily influenced by a hostile environment, including trying new

things to find identity, experience, and show his existence to others—a friend of the theme. In addition, children's mentality is not ready to consider (good and bad) new things that they receive from the surrounding environment.

Adolescence or child age is a time to find identity through life experiences. Still, suppose there is no control and direction from parents. In that case, children can have wrong views and fall into negative things in seeking identity and experience, such as the view that consuming Narcotics is an excellent thing and can be a source of pride for their friends. Children usually obtain this by viewing television shows, films, or virtual worlds.

If the child lives and develops in an environment or family that disobedient to religion, primarily if they have never been taught to obey God, children tend to be easily influenced by negative things. There is no role model for good values and norms in doing in the child's personality, and there is no fear (sin) of God. However, if the child is obedient to religion and close to God, the child will have confidence in existing moral values and norms. This will certainly reduce the desire to violate and the emergence of fear of sinning and violating the stated norms. By God Almighty. If linked, this factor is per the belief element of the social control theory proposed by Travis Hirschi in 1969. Belief is an element that embodies one's recognition of good norms in society. One of them is the norms contained in religion, so a person's disobedience to religion or lack of religious nature can also trigger delinquency behavior in someone.[10]

Family is the primary factor children in shaping the nature, habits, and identity of children; disharmony between children and parents can be the cause of children's delinquent behavior, this is because there is no inner attachment between children and parents, so there is a gap between the will of parents and the will Then the child can perform delinquency behavior that is caused because there is no sensitivity to the thoughts, feelings, and wills of others. Therefore, the role of the family is significant in nurturing the child as a good person so that he does not fall into negative things that affect the child's personality. If the child is not nurtured correctly, it is not surprising that the child will do bad things because there is no role for the family to supervise and limit the child's actions and determine whether it is good or bad. This factor is under the attachment element of the social control theory proposed by Travis Hirschi in 1969. Attachment is defined as a person's attachment to other people, either parents, teachers, or peers, that can inhibit the occurrence of a crime or deviant behavior. An attachment will make a person have feelings, sensitivity, and understand the will of others.

A lousy environment will directly impact the child's behavior and actions. Mentally, children are not yet mature enough to accept negative influences. Children will imitate what they see and experience in the surrounding environment because they think this is a normal thing to do. For this reason, the environment is very influential in determining the child's personality; a good environment will create a good child's personality. If it is associated with the theory of differential association proposed by Edwin Sutherland, this factor is appropriate. This theory explains the causes of delinquency behavior. This theory assumes that crime occurs due to the learning process in that a person interacting socially with others will indirectly understand, imitate, and dissolve in intimate interactions.

In connection with the descriptions above, it has been explained that if it is associated with the Form of Criminal Liability Perpetrators of the Crime of Abuse of Narcotics Types of Gorilla Tobacco, namely the defendant Yanuar Iskandar Putra who was found guilty of committing a crime of narcotics gorilla tobacco in the form of intentional, as intended, namely distributing narcotics class I, namely tobacco. Gorilla as regulated in article 114 paragraph (1) of Law Number 35 of 2009 concerning Narcotics j.o Minister of Health Regulation Number 50 of 2018 concerning Changes to the Classification of Narcotics.

3.2 Criminalization of Criminals for Narcotics Misuse of Gorilla Tobacco Types

The sentencing system is a statutory rule relating to sanctions and punishment. According to Barda Nawawi Arief, if the notion of punishment is defined broadly as a process of giving or imposing a crime by a judge, then it can be said that the criminal system includes all of the statutory provisions that regulate how the criminal law is enforced or operationalized concretely so that a person is sanctioned (law criminal). This means that all laws and regulations regarding Substantive Criminal Law, Formal Criminal Law, and Criminal Implementation Law can be seen as a single criminal system.[11]

Furthermore, Barda Nawawi Arief stated, starting from the above understanding, if the statutory rules are limited to the substantive criminal law contained in the Criminal Code, it can be said that all provisions in the Criminal Code, both the form of general rules and special rules regarding The formulation of a criminal act is essentially a unified criminal system. The entire statutory rules in substantive criminal law consist of general rules (general rules) and special rules (special rules). General rules are contained in the Criminal Code (Book I), and special rules are contained in Books II and III and Special Laws outside the Criminal Code. These special rules generally contain the formulation of certain criminal acts but may also contain special rules that deviate from the general rules.

The criminalization of narcotics abuse must be accompanied by law enforcement for perpetrators through the criminal system adopted in Indonesia, one of which is the criminal system by implementing and imposing penalties for perpetrators through a Judge's Decision which aims to restorative justice based on treatment, not retaliation as is commonly held. The criminal system in Indonesia is in the form of imprisonment. The treatment as an alternative punishment for drug users and addicts as victims of drug trafficking is very appropriate to use rather than a disciplinary and relative approach to the criminal justice system in Indonesia. This is based on the view that the application of punishment to perpetrators of drug crimes based on the purpose of treatment is more directed at the perpetrator as a victim, not at his actions. This alternative punishment is intended to provide treatment and rehabilitation rather than rehabilitation punishment.

Sentencing based on Law No. 35 of 2009 concerning Narcotics is also supported by SEMA (Supreme Court Circular) No. 04 of 2010 concerning Placement of Abuse, Victims of Abuse and Narcotics Addicts in Medical Rehabilitation and Social Rehabilitation Institutions. The existence of SEMA No. 04 of 2004 further clarifies the difference between victims of abuse and addicts of narcotics abuse. The rehabilitation process has also been determined where the victim of abuse can rehabilitate in a place that the authorities have appointed.

4 Conclusion

Forms of Criminal Liability Perpetrators of the Crime of Narcotics Misuse of Gorilla Tobacco Type is the defendant Yanuar Iskandar Putra found guilty of committing a crime of narcotics gorilla tobacco in the form of intentional, as referred to, namely circulating narcotics group I, namely gorilla tobacco as regulated in article 114 paragraph (1) of the Law - Law Number 35 of 2009 concerning Narcotics j.o Minister of Health Regulation Number 50 of 2018 concerning Changes to the Classification of Narcotics.

It is for the public to participate more in preventing and eradicating the circulation and abuse of narcotics and for the government to design and enforce penalties for dealers and users to avoid the broader network of narcotics dealers and users.

The rule of law needs to be enforced, especially for drug users. Considering the magnitude of the danger posed by the misuse of narcotics, it is necessary to give sanctions or punishments that are as severe as possible and regardless of the narcotics users of the gorilla tobacco type, if necessary, life imprisonment even if necessary, the death penalty for people who distribute and addicts or people who involved in it.

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