

Formulation of Legal Interpretation to Prevent Differences in Interpretation of Article 112 Section (1) and Article 127 Section (1) Letter a of The Narcotic Law

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Abstract. The difference in the application of the article shows that there are different interpretations of the law. The purpose of this study is to analyze the causes of differences in interpretation by judges in the application of Article 112 Paragraph (1) and Article 127 Paragraph (1) Letter a of the Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics and to analyze the formulation of appropriate legal interpretations to prevent discrepancies. interpretation of Article 112 Paragraph (1) and Article 127 Paragraph (1) Letter a of the Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics. The results of the study show that there are differences in the interpretation of Article 112 Paragraph (1) and Article 127 Paragraph (1) Letter a of the Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics resulting in the law being weak and causing uncertainty so that it can lead to injustice. Differences in interpretation can be seen from the intentions, the ambiguity of the very broad meaning of the text, and the complexity of the problem when applied to concrete cases. There are several alternative formulation policies for Article 112 Paragraph (1) and Article 127 Paragraph (1) Letter a of the Law of the Republic of Indonesia Number 35 Year 2009 concerning Narcotics, namely: by changing Article 112 Paragraph (1) and Article 127 Paragraph (1) Letter a Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics.

Keywords: Dynasty, Formulation, Law, Narcotic

1. Introduction

Narcotics are harmful and create crime. Crime as a social phenomena is not just a banned deed, biological disorder, or psychological disorder; these behaviors are harmful and violate public sentiment [1]. It takes a law to limit drug misuse and distribution. Only the *Verdovende Middelen Ordonnantie* (Staats blad No. 278 jo No. 536) [2] regulates drugs. As narcotics have developed, restrictions have changed. The current narcotics law is Indonesia's Number 35 of 2009. The Indonesian government passed Law 35 of 2009 to combat narcotics criminality [3].

No less interesting is the discovery of several formulations of articles that indirectly try to attach the status of the victim to the perpetrators of certain narcotic crimes such as narcotics addicts. Narcotics addicts who are classified as narcotics abusers Group I basically meet the qualifications as perpetrators of narcotics crimes, but in certain circumstances, narcotics addicts will be more domiciled towards the victim [4]. What is more interesting is that the Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics was born with the injection of the "principle of error" in the trunk which is used as the basis for imposing criminal penalties

on perpetrators, dealers, dealers, and even narcotics abusers or victims. Following the principle of error, the proof of a narcotics crime does not automatically mean that the perpetrator is sentenced to a crime or action because it depends on whether the defendant has made a mistake or not [5].

Article 112(1) of Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics is utilized to catch narcotics traffickers. The parts in this article are too vague and not particularly directed to whom because the law's explanation says "very clear," yet Article 127 Paragraph (1) Letter an of Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics often applies to drug abuse victims. The two multi-interpreted clauses of the Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics will result in narcotics criminals (traffickers) taking sanctuary as if they were victims of narcotics crimes. Narcotics users are subject to Article 127 Paragraph (1) Letter a, which carries a maximum 4-year prison sentence and medical and social rehabilitation measures. It's unreasonable to condemn someone who has never used drugs to Article 112 Paragraph 1, which carries a minimum sentence of 4 years and a maximum of 12 years plus a minimum fine of Rp. 800,000,000, - (eight hundred million rupiah)[[6].

Differences in article applicability reflect various legal views. Legal interpretation differences are inherent in the judicial process, but the problem is with the varied interpretations of the law assuming the quality of the laws and regulations is poor or cannot give legal certainty [7]. Article 112 Paragraph (1) and Article 127 Paragraph (2) Letter an of Law of the Republic of Indonesia Number 35 of 2009 regulating Narcotics cause multiple interpretations and legal confusion. To achieve the aim of the law, a legal rule must be firm, explicit, consistent, and unambiguous. Legal certainty of this positive law can be diminished by its ambiguous wording or by legislative modifications.[8].

Various techniques of interpretation can result in different outcomes (disparity), but for judges, what matters is whether verdict is acceptable or appropriate for justice seekers (justiciable) and society in general[9]. The current practice of drugs addicts and abusers is charged under Article 112 Paragraph (1) and Article 127 Paragraph (1) of Indonesia's 2009 Narcotics Law. Based on the context of the situation, the study's questions are: What leads judges to read Article 112 Paragraph (1) and Article 127 Paragraph (1) Letter an of Law 35 of 2009 on Narcotics differently? What is the correct formulation of legal interpretation to prevent multiple readings of Article 112 Paragraph (1) and Article 127 Paragraph (1) Letter an of Indonesia's 2009 Narcotics Law?

2. Method

This type of research is library research. Literature research is research that is carried out through library data collection or research carried out to solve a problem which basically relies on a critical and in-depth study of relevant library materials [10]. This research includes library research because data sources can be obtained from libraries or other documents in written form, both from journals, books, and other literature

3. Result & Discussion

Eradicating narcotics criminality at a certain level is a dilemma. On one side, the state must assure the availability of narcotics, but on the other, it must remove narcotics addiction. This problem has been anticipated with the preparation of Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics, which states that the law was formed to improve health

services by seeking the availability of certain types of narcotics needed as drugs and preventing and eradicating abuse and illicit trafficking. Narcotic precursors.

Law 35 of 2009 has 2 sides. It's humanistic in that addicts and abuse victims must undergo rehabilitation, yet it's tough with a high criminal punishment and little criminal threats. Narcotics crime is a victimless crime. Drug dealers also suffer. Court decisions punishing drug traffickers sometimes lack justice and legal certainty. Same legal occurrence prosecuted or resolved under different article or vice versa. Different law enforcement attitudes cause this. Inaccurate sentencing for drug crimes is implied. This error could increase narcotics criminality. Repeat offenders can be caused by criminals who should be rehabilitated but are imprisoned..

Article 112 Paragraph (1) and Article 127 Paragraph (1) Letter an of Indonesia's 2009 Narcotics Law have various difficulties. These concerns can be seen in the increase in narcotics cases submitting legal remedies, which affects the number of convicts in narcotics cases in correctional institutions. With a big number of narcotics inmates and extended interaction, the prisoners can influence one other, which increases the quality of the perpetrators, who were initially merely users who could become sellers. Legal remedies are rights granted by law, but if you look closely, the legal remedies proposed in handling narcotics crimes are due to differences in interpretation between law enforcers, whether public prosecutors, legal advisors, and even judges at every level, where judges at the first instance may differ from appellate or cassation judges. Several cases with the same place on the article's application show this.

Differences in article applicability reflect various legal views. Legal interpretation differences are inherent in the judicial process, but the difficulty is when the quality of the laws and regulations is poor or cannot give legal clarity, which is the legal purpose. Legal certainty doesn't happen by itself; law enforcers must apply it. For that, we require legal certainty in its implementation, in this instance positive law. The law's ambiguity can damage it. [11].

Legal certainty and justice are two mutually supportive factors in an effort to maintain harmony between the interests contained in society [12]. The existence of different interpretations by law enforcement caused by the ambiguity (fuzzy) of the positive law in the form of the Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics, resulted in the law being weak and causing uncertainty so that it could lead to injustice.

Issues of legal interpretation raise issues of language and interpretation, text and signification through the meanings given, ranging from institutional, axiological, socio-political questions, to analytic questions about which method of interpretation is the most adequate[9]. Based on the issues of legal interpretation, there are three important problems in the Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics, namely intent, ambiguity and complexity. Based on this, the ambiguity of the Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics in particular Article 112 Paragraph (1) and Article 127 Paragraph (1) Letter can be seen from:

3.1 Intentions

Law enforcement officials have distinct interests than prosecutors with legal counsel or the defendant and judge. The prosecutor interprets the law to prove the case, and legal advisers to defend the defendant. The judge interprets the law based on his beliefs. Article 112 Paragraph (1) of the Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics states, "Anyone who illegally owns, keeps, controls, or delivers Narcotics Category I is not a plant." The word owns, keeps, controls, or provides covers a wide range of events or activities. The intent of these laws covers various occurrences or actions.

For the public prosecutor, it is useful because the perpetrator's acts are easy to show. However, legal counsel or the defendant will find it difficult to mount a defense. The main problem isn't who wins or loses, but how law enforcement balances certainty, benefit, and justice. Article 127 Paragraph (1) Letter an of Indonesia's Law Number 35 of 2009 on Narcotics states, "Every Category I narcotics abuser is for himself." Abuse is illegally using or eating opioids without a doctor's recommendation.

3.2 Vagueness (Vagueness)

Article 112 Paragraph (1) of Law No. 35 of 2009 on Narcotics is ambiguous due to its broad interpretation, which embraces activities. Legal text netted many acts. This can criminalize someone's acts, making justice impossible to enforce and imprisoned in legal certainty. Article 127 Paragraph (1) Letter an of the Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics is clearer and more detailed. Legal norms and legal texts are easier to understand, especially for law enforcement officials, so their application does not require intricate legal interpretations.

3.3 Complexity

Article 112 Paragraph (1) and Article 127 Paragraph (1) Letter an of the Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics conflict, causing complications in particular circumstances. The abuser's acts nearly always involve possessing, storing, controlling, or supplying. In a specific instance, judges must interpret the law intelligently to establish whether crimes were committed.

Law 35 of 2009 on Narcotics is a good norm in narcotics criminality. Supreme Court Circular Number 4 of 2010 about Placement of Abuse, Victims of Abuse, and Narcotics Addicts into Medical Rehabilitation and Social Rehabilitation Institutions guides judges in the application of rehabilitation penalties that can only be imposed on criminal crimes. When caught, 1 day's use, or 1 gram, is found. Supreme Court Circular Number 1 of 2017 concerning the Enforcement of the Formulation of the Results of the 2017 Supreme Court Chamber Plenary Meeting as a Guide to the Implementation of Duties for the Court contains, among other things, if the defendant is not caught taking narcotics and the defendant is found with narcotics. The defendant's urine test proves positive for methamphetamine, but the prosecution doesn't charge him. Article 127 Paragraph (1) of the Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics classifies the defendant as a narcotics abuser (1).

In practice, Circular Letter of the Supreme Court Number 4 of 2010 regarding Placement of Abuse, Victims of Abuse, and Narcotics Addicts into Medical Rehabilitation and Social Rehabilitation Institutions has not been used to enforce narcotics crimes, especially by law enforcement officers outside the Supreme Court. First and second level Supreme Court courts have diverse interpretations and are not based on SEMA, therefore many narcotics cases get to court. The Supreme Court, based on SEMA, decides on drugs cases only based on the amount of narcotics controlled by the culprit, not on the case's position or profile of the perpetrator, hence decisions often differ and lack fairness and legal certainty. actors, society

Article 112 Paragraph (1) and Article 127 Paragraph (1) Letter an of Law of the Republic of Indonesia Number 35 of 2009 regulating Narcotics provide multiple interpretations and legal confusion. To achieve the aim of the law, a solid, unambiguous, non-ambiguous, regularly applied, and certain legal rule is needed. Article 1 Paragraph 1 of the Criminal Code is the cornerstone of legal certainty and the rule of law.

Article 112 Paragraph (1) of the Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics specifies that a person without rights or against the law owns, holds,

controls, or supplies Narcotics Category I. This should be accompanied by the purpose or legal facts. With this clarity, it doesn't cause numerous interpretations and isn't used as a backup article because several articles in Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics contain possessing, storing, and regulating aspects that can be imposed on all acts.

Legal certainty under Article 112 Paragraph (1) and Article 127 Paragraph (1) Letter an of the Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics requires a clear, firm, non-ambiguous legal rule. Legal certainty also requires legal structures that apply the law consistently. So, Article 112 Paragraph (1) of the Law of the Republic of Indonesia Number 35 of 2009 about Drugs must be consistent that it is used for narcotics criminals, not abusers. Inconsistent interpretation of the article by law enforcement has led to criminals being classified as narcotics abusers. Inconsistency harms drug abuse victims [8].

There are numerous possible formulation strategies for Article 112 Paragraph (1) and Article 127 Paragraph (1) Letter an of Law of the Republic of Indonesia Number 35 Year 2009 Concerning Narcotics. The amendment adds "selling, circulating" to Article 112 Paragraph 1. With this development, drug criminals can't pose as addicts. This change is needed to catch narcotics criminals. With these adjustments, Paragraph (1) and Article 127 Paragraph (1) Letter an of Law 35/2009 on Narcotics can be met.

Alternatives to eradicating narcotics misuse include balancing punishment with recovery or rehabilitation. This balance of measures is employed to overcome the opioids problem by emphasizing prevention, treatment, and eradication [13]. Indonesia's Law of the Republic of Indonesia Number 35 of 2009 Concerning Narcotics mandates rehabilitation for addicts and abuse victims and jail for narcotics abusers. Indonesia joined the United Nations agreement in 1998, where abusers are provided a rehabilitation alternative. The Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics governs a double track system, namely criminal sanctions and action sanctions [14].

The policy to place abusers in rehabilitation institutes through an assessment procedure without a formal trial decriminalizes narcotics offences by replacing criminal sanctions with rehabilitation. With the correct penalty for narcotics criminals, the legal goals of justice, certainty, and benefit can be attained. For this reason, law enforcers must have a common vision of narcotics crime law, notably Article 112 Paragraph (1) and Article 127 Paragraph (1) Letter an of the Law of the Republic of Indonesia Number 35 of 2009 Concerning Narcotics, to avoid divergent interpretations that lead to injustice. Drug cases that suggest legal remedies and treat culprits properly can reduce drug offenses.

4. Conclusion

1. There are different interpretations of Article 112 Paragraph (1) and Article 127 Paragraph (1) Letter a of the Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics resulting in the law being weak and creating uncertainty so that it can lead to injustice. Differences in interpretation can be seen from the intentions, the ambiguity of the very broad meaning of the text, and the complexity of the problem when applied to concrete cases.
2. There are several alternative formulation policies to Article 112 Paragraph (1) and Article 127 Paragraph (1) Letter a of the Law of the Republic of Indonesia Number 35 Year 2009

concerning Narcotics, namely: by changing Article 112 Paragraph (1) and Article 127 Paragraph (1) Letter a Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics. The amendment is sufficient to add the elements of the article contained in Article 112 Paragraph (1) with the element of "selling, circulating" in the editor.

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