

HOW TO ENFORCE CRIMINAL LAW AGAINST NARCOTICS ABUSE OF NEW TYPES OF VARIANTS THAT HAVE NOT BEEN INCLUDED IN LAW NUMBER 35 OF 2009 CONCERNING NARCOTICS

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Abstract

Today, many different narcotics, psychotropics, and other illegal drugs emerged. These new variants are not/have not been regulated by law number 35 of 2009 concerning narcotics. This research uses Normative Juridical methodology. The data used for the formulation of the problem is secondary data consisting of primary, secondary and tertiary legal documents. The results of the analysis show that in order to implement the provisions of Article 6 paragraph (3) of the Narcotics Law, it is necessary to stipulate a Regulation of the Minister of Health concerning Changes in the Classification of Narcotics, which is the last position where this research was written. Minister of Health of the Republic of Indonesia Number 4 of 2021 concerning changes to the classification of narcotics. Law Number 35 of 2009 concerning Narcotics and Regulation of the Minister of Health of the Republic of Indonesia Number 4 of 2021 concerning changes to the classification of narcotics which are guidelines for law enforcement against drug abuse with new variants in Indonesia are still deemed ineffective and efficient and do not accommodate all needs -the need for law enforcement against narcotics abuse, especially narcotics with new types of variants. An alternative policy formulation to Law Number 35 of 2009 concerning Narcotics, the formulation policy that is deemed suitable for implementation in the future is to revise Law Number 35 of 2009 concerning Narcotics in particular to expand the meaning related to narcotics in the provisions of Article 1 number 1 and/or Article 6 paragraph (1).

Keywords: Criminal Law Enforcement, Narcotics, Narcotics Abuse of Novel Variants

1. INTRODUCTION

In this modern era, narcotics crimes committed by narcotics offenders have entered the area of transnational law and involve perpetrators from various countries, so that narcotics offenders use increasingly sophisticated modus operandi and are supported by an increasingly broad organizational network. As a result, law enforcers are demanded/must follow existing developments in acting to eradicate narcotics circulation (Sadiq, 2017; Tutik, 2013).

The phenomena that occurred in this era, many types of narcotics, psychotropics and other illegal drugs emerged which had various variants. These new variants are not/have not been regulated by law number 35 of 2009 concerning narcotics. One example of a new type of narcotics at that time was gorilla tobacco narcotics. According to the National Narcotics Agency (BNN), synthetic tobacco (gorilla tobacco) is a mixture of tobacco/cigarettes and synthetic/imitation marijuana which contains the substance AB-CHMINACA. AB-CHIMACA is a type of Synthetic Cannabinoid or synthetic cannabis that can have addictive effects. Gorilla tobacco is a new type of narcotic that has not been regulated in Law Number 35 of 2009 concerning Narcotics, but later, the government determined gorilla tobacco as a class I narcotic as contained and listed in the Regulation

of the Minister of Health of the Republic of Indonesia Number 4 of 2021 concerning Changes in the Classification of Narcotics.

Law Number. 35 of 2009 concerning Narcotics has classified 3 (three) categories of Narcotics, namely:

- 1) Narcotics class I are narcotics which can only be used for scientific development purposes and are not used in therapy and have a very high potential to cause dependence.

Example: Heroin, Cocaine, Coca Leaf, Opium, Marijuana, Jicing, Katinon, MDMA/Ecstasy, and more than 65 (sixty five) other types.

- 2) Narcotics class II are narcotics which are efficacious for treatment used as a last resort and can be used in therapy and/or for the purpose of scientific development and have a high potential to cause dependence.

Example: Morphine, Pethidine, Fentanyl, Methadone and others.

- 3) Narcotics class III are narcotics which have mild addictive power, but are useful and efficacious for treatment and research. Group III narcotics are widely used in therapy and/or for the purpose of scientific development and have the potential to cause dependence.

Example: Codeine, Buprenorphine, Ethylmorphine, Kodeina, Nikokodina, Polkodina, Propiram, and there are 13 (thirteen) kinds including several other mixtures.

Narcotics abusers are people who use drugs outside of supervision and control or in another sense are those who use drugs without medical advice. Although a narcotics abuser either intentionally or unintentionally commits acts of narcotics abuse without medical guidance and supervision. People who abuse narcotics can be categorized as victims of narcotics crimes (Kiaking, 2017; Moeljatno & Cipta, 1983).

In Indonesia there are several cases of new types of narcotics abuse, but the authors include 2 (two) phenomenal cases, namely:

- 1) A very phenomenal case in the entertainment world at that time, where on January 27 2013, BNN carried out a hand-catching operation against an actor named Mr. Raffi Ahmad for drug abuse. Mr. Raffi Ahmad was arrested by BNN at his residence which is located in the Lebak Bulus area, South Jakarta. Mr. Raffi Ahmad was arrested for being caught red-handed using narcotics containing the substance cathinone or cathinone or methylone. Mr. Raffi also tested positive for using a new type of narcotics with the substance katinone or cathinone or methylone. After undergoing a long process and having undergone rehabilitation in Lido, Sukabumi, West Java province, Mr. Raffi Ahmad was finally released in April 2013. Head of Public Relations for the National Narcotics Agency, Kombes. Pol. Slamet Pribadi declared the case file on behalf of Mr. Raffi Ahmad, was not accepted by the prosecutor (Attorney General's Office) because the prosecutor clashed with the case of Mr. Raffi Ahmad with the principle of legality as stipulated in Article 1 paragraph (1) of the Criminal Code (KUHP). Because of the type of narcotics consumed by Mr. Raffi Ahmad is a narcotic with a new type of variant or in other words not included or not yet registered in Appendix I or Appendix II of the Narcotics Law as well as colliding with the principle of legality which reads "*Nullum delictum, nulla puna sine praevia lege punali*" or no crime, no criminal punishment without prior criminal law as referred to in the provisions of Article 1 paragraph (1) of the Criminal Code, then Mr. Raffi Ahmad was declared free. From

this description it is clear that the legal process against Mr. Raffi Ahmad could not continue because the substances katinone or cathinone or methylone were not contained in the annex to the Narcotics Law. That means, Mr. Raffi Ahmad cannot be criminally prosecuted because there is no legal basis for the status of the substance katinone or cathinone or methylone which is not contained in the Narcotics Law; and

- 2) DKI Jakarta High Court Decision Number: 110/PID/1997/PTDKI 1996, in which Ms. Zarima abused narcotics with the type of ecstasy which at that time was a new substance originating from the Netherlands Windmill Country. Narcotics of the ecstasy type have not been regulated by laws and regulations. However, after conducting laboratory tests, ecstasy-type narcotics contain the substance methylonediaxxy methamphetamine (MDMA), where MDMA contains a synthetic derivative of the substance dimethyl (methelidioxy) femethylamine which is listed in article 3 attachment I to the Regulation of the Minister of Health of the Republic of Indonesia Number 124/Menkes/per/II /1993 dated February 8, 1993 regarding certain hard drugs.

Abuse of new variant types of narcotics in any form including but not limited to forms containing synthetic derivatives of dangerous substances should not be abused freely without medical supervision, moreover freely traded, produced, distributed and consumed by the general public (Ariandini, 2010). Arrangements for drug abusers of new variant types must obtain firm certainty in the context of enforcing the law on narcotics and the legal vacuum of sanctions that will be imposed for each new variant type of narcotics abuser. The implementation of the law enforcement function carried out by authorized institutions is expected to be able to implement a policy and strict legal sanctions against perpetrators of narcotics crimes and drug abusers of new types of variants, bearing in mind the government's consistency in eradicating narcotics crimes which cannot be separated from the objectives of the Indonesian state which is stated in the Preamble of the 1945 Constitution, namely to promote general welfare and educate the life of the nation and state.

Based on the background mentioned above, which basically explains the emergence of new types of narcotics with new variants, the aim of the research to be achieved is to analyze the conditions of narcotics abuse with new types of variants that live in society; and analyzing what breakthroughs can be made in the context of providing legal protection to the public by enforcing the law in an effort to tackle and combat the abuse of regulated narcotics as well as narcotics with new types of variants in Indonesia.

2. LITERATURE REVIEW

2.1. Extensive Legal Interpretation Theory

In general, interpretation is better understood as a process, action and way to describe or explain something that is not clear. Legal interpretation has a very important role in exploring and understanding the applicable legal provisions, for reasons of the conditions of the legal provisions themselves which are impossible to immediately apply to concrete cases given the different characteristics between the two.

According to Black's Law Dictionary, interpretation is *“The art or process of discovering and ascertaining the meaning of a statute, will, contract, or other written*

document. The discovery and representation of the true meaning of any sign used to convey ideas” or in other words interpretation is not limited to a method or action but a skill/art to get the true meaning of a legal document (Black, 1990).

Interpretation is a skill that must be possessed by jurists, especially judges, to understand the intent of existing laws and determine the correct legal basis for cases submitted to them. Legal interpretation is understood as “...*may be either 'authentic', when it is expressly provided by the legislator, or 'usual', when it is derived from unwritten practice*” (Black, 1990). Understanding and mastery of legal interpretation is really a very crucial basis for judges in dealing with cases submitted to them.

2.2. Criminal Law Policy Theory

Arief (2011) argue that “the term policy in this paper is taken from the term policy (English) or *politiek* (Dutch). Starting from these two foreign terms, the term criminal law policy can also be referred to as criminal law politics. In foreign literature the term criminal law politics is often known by various terms including *penal policy, criminal law policy, or strafrechts-politiek*”.

According to A. Murder *strafrechtspolitiek* is a policy line to determine: (Arief, 1998)

- 1) To what extent do the applicable criminal provisions need to be changed and updated;
- 2) What can be done to prevent the occurrence of criminal acts; and
- 3) The manner in which investigations, prosecutions, trials and execution of crimes must be carried out.

2.3. Narcotics Abuse Crime

According to the World Health Organization (WHO), narcotics are substances which, if put into the body, will affect physical and/or psychological functions (except food, water or oxygen (Juliana, 2013). Where as according to medical terms, narcotics are drugs that can relieve aches and pains originating from the viresal area or organs of the chest cavity and abdominal cavity and can cause a long dazed effect while still conscious and cause poisoning (Sylviana, 1996).

2.4. New Type of Narcotics Abuse Crime

Based on the provisions of Article 1 number (1) of Law Number 35 of 2009 concerning Narcotics (Narcotics Law), “*Narcotics are substances or drugs derived from plants or non-plants, both synthetic and semi-synthetic which can cause a decrease or change in consciousness, loss of feeling, reducing to eliminating pain and can cause dependence, which are divided into groups as attached to this law*”. In addition, narcotics in the Narcotics Law are also known as Narcotics Precursors as referred to in the provisions of Article 1 point 2 of the Narcotics Law which states that “*Narcotics Precursors are substances or starting materials or chemicals that can be used in the manufacture of Narcotics*”.

2.5. Law Enforcement Dynamics Against Narcotics Abuse with New Variants

Law Number 35 of 2009 concerning Narcotics (Narcotics Law) as a legal umbrella that regulates law enforcement on narcotics abuse is considered not to accommodate all needs, including not limited to enforcement of narcotics abuse in Indonesia.

Uncertainty about law enforcement regulations regarding narcotics with new types of variants in Indonesia makes handling Criminal acts of narcotics abuse with new types are also different, some provide criminal sanctions against perpetrators of narcotics abuse with new types of variants and those who do not make demands for criminal sanctions against narcotics abuse with new types of variants for reasons that the Narcotics Law does not regulate narcotics with a new type of variant at the same time contrary to the principle of legality.

The difference in the handling of cases of criminal acts of narcotics abuse with this new type of variant has resulted in unfair treatment in law enforcement resulting in a decrease in public trust in law enforcement officials who handle cases of criminal acts of narcotics abuse, especially narcotics abuse with new types of variants in Indonesia.

3. RESEARCH METHODS

In this study, we used the Normative Juridical research method which was carried out with a certain methodology to analyze and reconstruct a problem (Soekanto, 2006). The writing method used in this research was normative legal research which was basically a normative legal approach (a research is written and compiled based on statutory provisions). Meanwhile, the research approach used was the statutory research approach, and the case research approach.

The secondary data approach (data obtained from a literature study) was used during the data collection stage, in which researchers researched and studied secondary data in the form of written materials that had a correlation with the problems in the object of writing this thesis. The secondary data include:

- a. Primary Legal Materials, which are used in this writing include:
 - 1) Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics;
 - 2) Regulation of the Minister of Health of the Republic of Indonesia Number 4 of 2021 concerning changes to the classification of narcotics
 - 3) Decision Number: 387/Pid.SUS/2013/PN.Mtr; and
 - 4) Decision Number: 75/Pid.sus/2017/PN Bms.
- b. Secondary legal materials, including writings from legal experts with the issues being studied or those related to primary legal materials include literature in the form of books, papers, journals and research results.
- c. Tertiary legal materials, including legal materials that support primary and secondary legal materials, such as legal dictionaries, language dictionaries, articles in newspapers or newspapers and magazines.

Legal materials were collected by identifying and cataloging positive legal rules, researching library materials (books, scientific journals, and research reports), and other sources of legal materials relevant to the legal issues under consideration. Legal materials that have been collected were then classified, selected and ensured that they do not conflict with each other to facilitate analysis and construction of a legal research.

Analysis of legal materials was carried out by means of legal interpretation. The legal interpretation technique used was a grammatical interpretation technique.

4. RESULTS AND DISCUSSION

4.1. Law Enforcement Efforts Against Narcotics Abuse Based on Law Number 35 of 2009 concerning Narcotics and Other Legislations

Narcotics are substances or drugs that are extremely beneficial and required in the treatment of certain diseases. However, if it is abused or used against medical guidelines, it can have serious consequences for individuals or society, particularly the younger generation. This will be even more damaging if it is accompanied by drug abuse and illicit drug trafficking, which can endanger the lives and cultural values of the nation and ultimately weaken national security.

Abuse of Narcotics and other dangerous drugs is a very complex problem that requires continuous, active and comprehensive countermeasures by involving law enforcement agencies, experts and all levels of society to jointly combat the distribution of narcotics widely and free.

Law No. 35 of 2009 concerning Narcotics (Narcotics Law) is designed to reduce the amount of narcotics circulation and reduce the number of victims of narcotics abuse in Indonesia which has become transnational in nature. The purposes mentioned above can be seen in the preamble letters a to f of the Narcotics Law.

Referring to the provisions of Article 1 point (1) of the Narcotics Law “*Narcotics are substances or drugs derived from plants or non-plants, both synthetic and semi-synthetic which can cause a decrease or change in consciousness, loss of feeling, reduce to eliminate pain and can cause dependence, which is differentiated into groups as attached in this law*”. In addition, narcotics in the Narcotics Law are also known as Narcotics Precursors as referred to in the provisions of Article 1 point 2 of the Narcotics Law which states that “*Narcotics Precursors are substances or starting materials or chemicals that can be used in the manufacture of Narcotics which are distinguished in the table as attached to this Law*”.

Narcotics abuse is a criminal act regulated by the Narcotics Law. The meaning of nomenclature related to narcotics abuse cannot be found in the Narcotics Law. But even so, the Narcotics Law regulates abusers as referred to in the provisions in Article 1 number (15) of the Narcotics Law which states “*Abuse is a person who uses Narcotics without rights or against the law*”.

In the Narcotics Law, narcotics abusers are people who use narcotics without rights or against the law. Drug addicts can receive medical and social rehabilitation services. From this understanding of narcotics abusers, it can be concluded that narcotics abuse is an act of using narcotics without rights, against the law, or in violation of the provisions of the laws and regulations in force in Indonesia.

The Narcotics Law in Indonesia based on the Narcotics Law prohibits and threatens punishment for Narcotics abusers, which can be in the form of individuals or legal entities (corporations). Abusers can be individuals or legal entities (corporations). Abusers can be people who use Narcotics without rights or against the law, such as addicts, namely people who are already addicted to Narcotics, which according to the Narcotics Law is formulated in Article 1 number (13) states that “*Narcotics addicts are people who use or abuse Narcotics and are in a state of dependence on Narcotics, both physically and psychologically*”.

In the Narcotics Law there are several important chapters in efforts to enforce narcotics law, namely as follows:

- 1) CHAPTER I regulates General Provisions;
- 2) CHAPTER II regulates the Basis, Principles and Objectives;
- 3) CHAPTER III regulates Scope;
- 4) CHAPTER IV regulates Procurement;
- 5) CHAPTER V regulates import and export;
- 6) CHAPTER VI regulates the distribution of narcotics;
- 7) CHAPTER VII regulates Labels and Publications;
- 8) CHAPTER VIII regulates the Narcotics Precursor;
- 9) CHAPTER IX regulates Treatment and Rehabilitation;
- 10) CHAPTER X regulates Guidance and Supervision;
- 11) CHAPTER XI regulates Prevention and Eradication;
- 12) CHAPTER XII regulates Investigation, Prosecution and Examination at Court Sessions;
- 13) CHAPTER XIII regulates Community Participation;
- 14) CHAPTER XIV regulates Awards;
- 15) CHAPTER XV regulates Criminal Provisions;
- 16) CHAPTER XVI regulates Transitional Provisions; and
- 17) CHAPTER XVII regulates Closing Provisions.

The Narcotics Law regulates law enforcement efforts in the form of criminal provisions contained in the Narcotics Law which were formulated starting from Chapter XV of the Criminal Provisions covering Article 111 to Article 148. In the Narcotics Law, there are four categorizations of unlawful acts that are prohibited by the Narcotics Law which then provide threats criminal sanctions for perpetrators, namely as follows: (Sunarso, 2012)

- 1) The first category includes any acts of possessing, storing, controlling or providing narcotics and narcotics precursors as referred to in the provisions of Articles 111 and 112 of the Narcotics Law for class I narcotics, the provisions of Article 117 of the Narcotics Law for class II narcotics and the provisions of Article 122 of the Narcotics Law for narcotics group III and the provisions of Article 129 letter (a) of the Narcotics Law;
- 2) The second category includes any acts of producing, importing, exporting or distributing narcotics and narcotics precursors as referred to in the provisions of Article 113 of the Narcotics Law for class I narcotics, the provisions of Article 118 of the Narcotics Law for class II narcotics, and the provisions of Article 123 of the Narcotics Law for narcotics group III and the provisions of Article 129 letter (b) of the Narcotics Law;
- 3) The third category includes every act of offering to sell, sell, buy, receive, become an intermediary in buying and selling, exchanging, or handing over narcotics and narcotic precursors as referred to in the provisions of Article 114 and Article 116 of the Narcotics Law for class I narcotics, provisions of Article 119 and Article 121 of the Narcotics Law for class II narcotics, Article 124 and Article 126 of the Narcotics Law for class III narcotics and Article 129 letter (c) of the Narcotics Law; and

- 4) The fourth category includes any acts of bringing, sending, transporting or transiting narcotics and narcotics precursors as referred to in the provisions of Article 115 of the Narcotics Law for class I narcotics, the provisions of Article 120 of the Narcotics Law for class II narcotics and the provisions of Article 125 of the Narcotics Law for class III narcotics and Article 129 letter (d) of the Narcotics Law.

Arrangements regarding narcotics crimes are outlined starting from the provisions of Articles 5, 6, 7 and 8 of the Narcotics Law, which can be concluded as follows:

- 1) Article 5 of the Narcotics Law explains that the regulation of narcotics in the Narcotics Law includes all forms of activities and/or actions related to Narcotics and Narcotics Precursors;
- 2) Article 6 of the Narcotics Law explains the division of narcotics into 3 (three) groups, namely as follows:
 - a. Narcotics class I;
 - b. Narcotics class II; and
 - c. Narcotics class III.
- 3) Article 7 of the Narcotics Law explains that narcotics can only be used for the benefit of health services and/or science and technology development; and
- 4) Article 8 of the Narcotics Law explains that class I narcotics are prohibited from being used for the benefit of health services, but in limited quantities class I narcotics can be used only for the development of science and technology, for diagnostic reagents, and laboratory reagents after obtaining approval on a recommendation from the Head Drug and Food Control Agency (BPOM).

As an effort to enforce the law against narcotics abuse, the Narcotics Law regulates the existence of instruments to add or change attachments to narcotics groups as stipulated in Appendix I and Appendix II of the Narcotics Law through Ministerial Regulations cq Regulations of the Minister of Health as referred to in the provisions of Article 6 Paragraph (3) of the Narcotics Law states that "Provisions regarding changes to the classification of narcotics as referred to in paragraph (2) are regulated by a Ministerial Regulation".

In order to implement the provisions of Article 6 paragraph (3) of the Narcotics Law, it is necessary to stipulate a Regulation of the Minister of Health concerning Changes in the Classification of Narcotics which is the last position where this research was written, Regulation of the Minister of Health of the Republic of Indonesia which regulates changes to the classification of narcotics is regulated by Regulation of the Minister of Health of the Republic of Indonesia Number 4 of 2021 concerning changes to the classification of narcotics. As for the classification of narcotics based on the Regulation of the Minister of Health of the Republic of Indonesia Number 4 of 2021 concerning changes to the categorization of narcotics, it can be concluded that there are 191 (one hundred and ninety one) lists of class I narcotics, 91 (ninety one) lists of class II narcotics and 15 (fifteen) lists of narcotics class III narcotics.

The Regulation of the Minister of Health of the Republic of Indonesia concerning the classification of narcotics has undergone a change every time there is a change and/or addition of narcotics with a new type of variant, so that it can be said that the changes and/or changes to the Regulation of the Minister of Health of the Republic of Indonesia concerning the classification of narcotics have become ineffective and inefficient.

If in the future narcotics with new types of variants are found that have not been regulated in the provisions of the Narcotics Law both in Appendix I and Appendix II as well as in the Regulation of the Minister of Health of the Republic of Indonesia Number 4 of 2021 concerning changes to the classification of narcotics, then in addition to law enforcement officers experiencing difficulties and dilemmas in enforcing the law against abuse of narcotics with these new types of variants, of course narcotics with new types of variants will be included in the legislation again by adding and/or replacing them, especially Regulation of the Minister of Health of the Republic of Indonesia Number 4 of 2021 concerning changes to the classification of narcotics .

Based on the discussion above, of course, adding and replacing Regulation of the Minister of Health of the Republic of Indonesia Number 4 of 2021 concerning changes to the classification of narcotics every time there is a narcotic with a new type of variant is not an effective and efficient solution, so changes need to be made immediately so that the enforcement of narcotics law in Indonesia can run effectively and efficiently.

4.2. Appropriate and Efficient Criminal Law Policies in the Context of Law Enforcement Against Narcotics Abuse of New Variants in the Future

Referring to the previous discussions, this study found a legal issue that is very disturbing in efforts to enforce the law against narcotics abuse in Indonesia. As is well known, Law Number 35 of 2009 concerning Narcotics (Narcotics Law) and Regulation of the Minister of Health of the Republic of Indonesia Number 4 of 2021 concerning changes to the classification of narcotics are legal umbrellas in efforts to enforce the law against the abuse of narcotics in Indonesia.

Unfortunately, it is felt that the two legal instruments above have not accommodated all the needs of law enforcement against the abuse of narcotics in Indonesia, especially law enforcement against the abuse of narcotics with new types of variants. In practice, there are various handling of cases of criminal acts of narcotics abuse with new types of variants, some are charged with criminal sanctions and some are acquitted of charges of criminal sanctions.

The difference in the handling of narcotics abuse cases with this new type of variant has finally given rise to legal polemic, then how exactly do cases of narcotics abuse crime with a new type of variant be handled, whether criminal sanctions are given or not criminal sanctions are given because they collide with the principle of legality as stipulated in the provisions of Article 1 paragraph (1) of the Criminal Code (KUHP) states "An act is only a crime, if this is predetermined in a statutory provision".

Through this research, researchers try to approach the problem solving of the Narcotics Law and the Regulation of the Minister of Health of the Republic of Indonesia Number 4 of 2021 concerning changes to the classification of narcotics which are not felt to be able to accommodate all the needs of law enforcement against the abuse of narcotics in Indonesia, especially law enforcement against the abuse of narcotics of this type. new variant by applying extensive interpretive theory and criminal law policy theory.

As explained in the previous chapter, in general extensive legal interpretation is more understood as a process, action and way of describing or explaining something that is not clear. Extensive legal interpretation has a very important role in exploring and understanding the applicable legal provisions, for reasons of the conditions of the legal provisions themselves which are not immediately applicable to concrete cases given the different characteristics between the two.

Extensive legal interpretation is a method of legal interpretation that can be used to bridge the application of legal provisions to concrete cases that occur. When used in handling criminal cases, extensive interpretation must pay attention to the limits of the grammatical sound of the legal provisions so that there will be no violation of legal certainty.

Through extensive legal interpretation, law enforcement officers can expand the meaning of specific provisions to become general provisions in accordance with the rules of grammar. This was once done by a judge who interpreted grammatical rules, because the aims and objectives were unclear or too abstract to make it clear and concrete, the meaning needed to be expanded. For example, the word theft of goods as referred to in the provisions of Article 362 of the Criminal Code, is expanded to mean the essence of electricity as an intangible object. The result of this extensive interpretation in the theft of goods case is that goods are broadly interpreted by the judge to include electricity, but does not create a new offense but is still theft. Based on the essence of meaning and the practice of its application, extensive interpretation is carried out by expanding the meaning of words or sentences contained in a statutory regulation by finding equivalents or compatibility with other words or sentences without changing or changing the substance of the intent of the statutory provisions being interpreted.

With this approach, even though a new type of narcotics crime has occurred, where the new type is not included in the Annex to the Narcotics Law, criminal sanctions can be imposed on the perpetrators. There is an example of a case in 2013 in the West Nusa Tenggara area, namely the abuse of methylene type narcotics. The law enforcers handling this case collaborate so that the perpetrators can be charged under the Narcotics Law. In handling it, the panel of judges carried out an extensive interpretation so that methylene-type narcotics were included in the annex to the Narcotics Law, because the panel of judges considered that methylene-type narcotics were katinon derivatives so that they were included in the annex to the Narcotics Law.

Through an extensive interpretation approach, law enforcement officials can also use Law Number 36 of 2009 on Health (Health Law) to prosecute drug abuse with new variants. Narcotics are interpreted as drugs and substances with medicinal properties in the Health Act. new types of narcotics abusers can be categorized as drug abuse or drug misuse. Katzung (2002) give an opinion that “drug abuse tends to be interpreted as the use of drugs with non-medical purposes, usually to change consciousness. While the wrong use of drugs tends to mean wrong indications, dosage errors or prolonged use”.

Article 197 of the Health Law states as follows: "everyone who deliberately produces or distributes pharmaceutical preparations and/or medical devices that do not have a distribution permit as referred to in Article 106 paragraph (1) shall be punished with imprisonment for a maximum of 15 (fifteen) years with a maximum fine of Rp1.500.000.000,00 (one billion five hundred million rupiahs)".

Further, article 98 paragraph 2 states as follows: “Anyone who does not have the expertise and authority is prohibited from procuring, storing, processing, promoting, and distributing drugs and substances with medicinal properties. From the two provisions above, it is emphasized that people who produce or distribute pharmaceutical preparations and/or medical devices that do not have a distribution permit are subject to imprisonment and fines”.

Even so, law enforcement officials cannot continue to rely on an extensive approach, because even so solving problems using extensive interpretation requires

strong legal arguments without changing the substance of the intent of the statutory provisions being interpreted.

Furthermore, the discussion of criminal law policy has also been discussed in the previous chapter. Criminal law policy can be defined as actions or policies taken by the state or government to use criminal law to achieve specific goals, particularly in the fight against crime. It must be recognized that there are numerous ways and efforts that each country or government can make to combat crime. One method of combating crime is through criminal law policy or criminal law politics.

In order to make and at the same time formulate regulations governing criminal law, this is part of law enforcement efforts. For the simple reason that the basic act of creating and collecting criminal law regulations is an attempt to prevent, mitigate, minimize, and provide sanctions against criminals. Therefore, many say that politics or criminal law policies are part of law enforcement policies.

The development of criminal law policies to combat the abuse of new narcotic variants can begin by proposing amendments to Narcotics Law Number 35 of 2009. One idea for legal reform is to add the meaning of narcotics to the definition of narcotics in Article 1 Number 1 of the Narcotics Law and Article 6 paragraph (1) of the Narcotics Law, thereby broadening the definition of narcotics themselves. The idea of legal renewal through law reformulation opens up more opportunities for law enforcement to make criminal law decisions so that it is expected to minimize the abuse of new types of narcotics that are not listed in the annex to the Narcotics Law and law enforcement can be implemented optimally.

Narcotics Law and Regulation of the Minister of Health of the Republic of Indonesia Number 4 of 2021 concerning changes to the classification of narcotics which is a guideline in the context of law enforcement against narcotics abuse with new types of variants in Indonesia is still deemed ineffective and inefficient and does not accommodate all law enforcement needs against narcotics abuse, especially narcotics with a new type of variant so that it is necessary to take alternative policy formulations for the Narcotics Law, then the formulation policy that is deemed suitable to be implemented in the future is to revise the Narcotics Law in particular to expand the meaning related to narcotics in the provisions of Article 1 point 1 and/or Article 6 paragraph (1) as follows:

Article 1 point (1) reads:

“Narcotics are substances or drugs derived from plants or non-plants, both synthetic and semi-synthetic, which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can cause dependence, which are divided into groups as attached in this Law”

Become:

“Narcotics are substances or drugs derived from plants or non-plants, both synthetic and semi-synthetic, which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can cause dependence, which are divided into groups as attached in this law including but not limited to all derivatives of narcotics in each of the groups as attached to this law”

Article 6 paragraph (1) reads:

“Narcotics as referred to in Article 5 are classified into:

- a. *Narcotics Category I;*
- b. *Narcotics Category II; and*

c. Narcotics Category III”.

Becomes:

Narcotics as referred to in Article 5 are classified into:

- a. Narcotics Category I;*
- b. Narcotics Category II;*
- c. Narcotics Category III; and*
- d. All Derivatives of Narcotics Groups I, II, III.*

5. CONCLUSION

5.1. Conclusion

The following are some of the conclusion that can be drawn from this research :

- 1) Whereas in the framework of law enforcement efforts against narcotics abuse, Law Number 35 of 2009 concerning Narcotics regulates the existence of instruments to add or change attachments to narcotics groups as stipulated in Appendix I and Appendix II of the Narcotics Law through Ministerial Regulations cq Regulations of the Minister of Health as referred to in the provisions of Article 6 Paragraph (3) of the Narcotics Law states that "Provisions regarding changes to the classification of narcotics as referred to in paragraph (2) are regulated by a Ministerial Regulation". In order to implement the provisions of Article 6 paragraph (3) of the Narcotics Law, it is necessary to stipulate a Regulation of the Minister of Health concerning Changes in the Classification of Narcotics which is the last position where this research was written, Regulation of the Minister of Health of the Republic of Indonesia which regulates changes to the classification of narcotics is regulated by Regulation of the Minister of Health of the Republic of Indonesia Number 4 of 2021 concerning changes to the classification of narcotics.
- 2) Whereas Law Number 35 of 2009 concerning Narcotics and Regulation of the Minister of Health of the Republic of Indonesia Number 4 of 2021 regarding changes to the classification of narcotics which are guidelines for law enforcement against abuse of narcotics with new types of variants in Indonesia are still felt to be less effective and efficient and not accommodate all the needs of law enforcement against narcotics abuse, especially narcotics with new types of variants. The world is increasingly experiencing significant changes, including in which various modus operandi for the crime of narcotics abuse will be found with the presence of narcotics with new types of variants. An alternative formulation policy to Law Number 35 of 2009 concerning Narcotics, the formulation policy that is deemed suitable for implementation in the future is to revise Law Number 35 of 2009 concerning Narcotics in particular to expand the meaning related to narcotics in the provisions of Article 1 number 1 and/or Article 6 paragraph (1) as follows:
Article 1 point (1) reads: *“Narcotics are substances or drugs derived from plants or non-plants, both synthetic and semi-synthetic, which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can cause dependence, which are divided into groups as attached in this Law”*
Become: *“Narcotics are substances or drugs derived from plants or non-plants, both synthetic and semi-synthetic, which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can cause dependence, which are divided into groups as attached in this law including but not limited to all derivatives of narcotics in each of the groups as attached to this law”*

Article 6 paragraph (1) reads:

"Narcotics as referred to in Article 5 are classified into:

- a. *Narcotics Category I;*
- b. *Narcotics Category II; and*
- c. *Narcotics Category III*".

Becomes:

Narcotics as referred to in Article 5 are classified into:

- a. *Narcotics Category I;*
- b. *Narcotics Category II;*
- c. *Narcotics Category III; and*
- d. *All Derivatives of Narcotics Groups I, II, III.*

5.2. Suggestion

Based on the findings and conclusion above, current research suggest that in the efforts to prevent and eradicate drug abuse, especially narcotics with new types of variants, must be carried out by all levels of law enforcement officials together with the community. Therefore, supporting facilities are needed in law enforcement efforts against narcotics abuse with new types of variants. In addition, government may revise Law Number 35 of 2009 concerning Narcotics, in particular expanding the meaning related to narcotics in the provisions of Article 1 number 1 and/or Article 6 paragraph (1).

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