

**CRIMINAL POLICY ABOUT *KECUBUNG* CONTAINING
ADDICTIVE SUBSTANCES ACCORDING TO LAW NUMBER 35 OF
2009 CONCERNING NARCOTICS**

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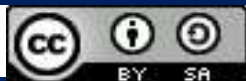
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Abstract

This paper raises problems related to the absence of regulation regarding kecubung which contains alkaloid substances known as anesthetics and is an addictive substance for Narcotics, substances which when consumed in excess can cause decreased and altered consciousness, loss of taste, eliminate or reduce pain and cause dependence. severe or excruciating pain. The absence of regulations regarding amethyst has resulted in a legal vacuum and this is very unfortunate. This journal research uses normative juridical research supported by empirical juridical, the research approach method used is the statute approach (statutory approach), the conceptual approach (conceptual approach) and the case approach (case approach) and the data analysis technique of this research uses interpretation techniques. systematic, grammatical interpretation and theological interpretation. The results of the study concluded that regulation of the use of Kecubung is very much needed, where later this regulation can be used as a basis for law enforcement officials, especially the Police and BNN to process the law against the new types of Narcotics abuse as referred to in Law Number 35 of 2009 concerning Narcotics and Permenkes Number 44 of 2019 concerning changes in the classification of Narcotics.



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INTRODUCTION

Indonesia is a country of law according (Asshiddiqie, 2011) In a legal state, many regulations are made, especially laws and regulations related to certain fields. In this paper, the author discusses the material about kecubung which contains alkaloid substances known as anesthetics and is an addictive substance for Narcotics. (KURNIA, Wikanta, & Ghoni, 2016) Addictive substances are substances that when consumed in excess can cause a decrease and change in consciousness, loss of taste, relieve or reduce pain and cause severe dependence or extreme pain. (Eleanora, 2021) Therefore, legal arrangements in Indonesia related to kecubung abuse must be clearly stated in a regulation that contains clear sanctions to ensure legal objectives, namely, justice, certainty, and benefit (Sagama, 2016)

Narcotics abuse is a problem that needs more attention from the Indonesian state. (Herindrasti, 2018) This problem becomes very important, besides its benefits which have an impact on both physically and mentally when used with the right dose and under the supervision of a doctor. Narcotics can also be a big problem and danger if abused. Narcotics abuse cases are increasing every year. This is evidenced by the proliferation of materials

or goods containing narcotic substances so that they can be used as substitutes for narcotics. Judging from the juridical aspect, all types of legal groups exist if they are listed in the Narcotics Law and only prohibit the use of narcotics without permission by the law in question. (Law, 2009)

According to Article 1 of the Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics, narcotics are substances or drugs derived from plants or non-plants, both synthetic and semisynthetic, which can cause a decrease or change in consciousness, loss of pain, and can lead to dependence.

Narcotics itself is a legal drug used in medicine according in (Adam, 2012) However, nowadays narcotics are being abused a lot. Not even a few among young people who use narcotics. Many of them use narcotics for reasons of inner pleasure, but unfortunately not many are aware of the dangers of narcotics (Darwis, Dalimunthe, & Riadi, 2017)

Narcotics is no longer a strange thing that we have ever heard of or we know about, and there are even many people who know the dangers and impacts of using narcotics and illegal drugs. But in fact, there are still many who do not care about the situation that threatens human survival. To make matters worse, these drug users are generally teenagers.

Lack of knowledge and a deeper understanding of the dangers of narcotics are still not being understood by teenagers, especially in Indonesia. (Agustina & Sirait, 2020) Although efforts to eradicate narcotics have been intensified and public complaints and concerns about the use of narcotics have gone global, there are still many adolescents and minors who have fallen outside the supervision of the surrounding community (Hidayat, 2016)

The existence of Law Number 35 of 2009 concerning Narcotics has not been able to minimize the occurrence of a narcotics crime. Recently discovered a new type of narcotics, namely Kecubung. This new type of narcotics has a marijuana-like effect. Law Number 35 of 2009 concerning Narcotics has provided different treatment for narcotics abuse offenders. Before this law came into effect, there were no differences in treatment between users, dealers, dealers, and producers of narcotics. In the humanitarian field, the use of narcotic substances tends to be destructive because these narcotic substances have an addictive power that can cause the wearer to use them continuously (Siagian & Saputra, 2019)

Abuse of over-the-counter drugs, glue, and kecubung are generally used by groups of street children or who cannot afford expensive narcotics. (Wahyuningtyas, 2020) Many of them claim that the effects of kecubung can cause the user to be drunk for days depending on the amount of kecubung extracted. The reason they use kecubung is out of curiosity, to invite friends or just to feel comfortable and relax. Some of them also realized that the effects of kecubung were more terrifying than the usual narcotics, so they switched to double L pills with a dosage of 1-6 times a drink.

Based on Article 54 of Law No. 35 of 2009 on narcotics, it is determined that narcotics addicts and narcotics abuse are required to undergo medical and social rehabilitation.(Law, 2009)

In the above case, the users of the kecubung type of narcotics are minors, but the perpetrators or users of this new type of kecubung narcotics are free because the new types are not included in the narcotics or psychotropic drugs table as stipulated in Law Number 35 of 2009 concerning Narcotics. It is very unfortunate that the perpetrator of the narcotics crime cannot be charged by the law because there are no rules or there is a legal vacuum that regulates the kecubung. In enforcing the law, clarity is needed regarding the

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form of prohibitions and sanctions that can ensnare the perpetrators of the Narcotics crime.

The author conducted this study taking the title Criminal Policy concerning kecubung containing addictive substances according to Law Number 35 of 2009 concerning Narcotics. It is hoped that the new rules governing Kecubung in Law Number 35 of 2009 concerning Narcotics can guarantee justice, certainty, and legal benefits for the community. It is also hoped that this new type of Kecubung narcotics-related regulation can minimize narcotics crimes in Indonesia.

Previously there were several studies that had examined the same thing. One of them is a research conducted by (Wahyuningtyas, 2020) with the title Law Enforcement Against Abuse of *Kecubung* Plants in Batu City which is not Registered in Law Number 35 of 2009 concerning Narcotics (Study at the National Narcotics Agency of Batu City). According to this study, there are 2 attempts to tackle crime, namely punishment, and non-punishment. For law enforcement efforts that can be carried out by the National Narcotics Agency as an effort to combat non-criminal crimes, actions taken by the National Narcotics Agency are medical and social rehabilitation. And for efforts to prevent criminal acts, the National Narcotics Agency has not been able to implement or take concrete action because the kecubung plant is not categorized as a substance or plant that is registered in the Narcotics Law.

RESEARCH METHODS

This research is a legal research that is normative in nature, namely legal research that focuses on a scientific research procedure to find the truth based on the logic of legal science from the normative side. (Johny Ibrahim). This journal research uses normative juridical research supported by empirical juridical, the research approach method used is the statute approach (statutory approach), the conceptual approach (conceptual approach) and the case approach (case approach) and data analysis techniques this research uses interpretation techniques systematic, grammatical interpretation and theological interpretation.

The legal materials studied in this study are primary legal materials that are sourced from legislation supported by secondary legal materials sourced from books and the internet related to Law number 35 of 2009 concerning Narcotics.

RESULTS AND DISCUSSION

A. Research results on the Criminal Policy on Kecubung containing addictive substances

The chemical content of the Kecubung plant (*Datura metal Linn*) contains alkaloids which are known to be substances that can be used for anesthesia and can also be used as traditional medicine. All parts of the kecubung plant from the roots, stems, leaves, fruit, flowers, and seeds contain tropane alkaloid compounds which are known as anesthetics or sedatives. Alkaloids, not in Appendix I or Attachment II of Law No. 35 of 2009 concerning Narcotics, is a class and type of precursor to narcotics.

Therefore, based on the Narcotics Law, there is no sanction for people using kecubung containing alkaloids, in the Regulation of the Minister of Health of the Republic of Indonesia Number 44 of 2019 concerning changes in the classification of Narcotics, Kecubung which contains compounds with alkaloids which are addictive substances that have not been regulated in the attachment Decree No. 44 the Year 2019.

B. Analysis of the Criminal Policy on Kecubung containing addictive substances

1) Kecubung containing addictive substances

Kecubung, which contains alkaloids known as anesthetics, is an addictive substance for Narcotics, namely substances whose circulation is prohibited throughout the world and the prohibition is listed in the law. This substance when consumed in excess can cause a decrease and change in consciousness, loss of taste, relieve or reduce pain and cause severe dependence or excruciating pain. So that Kecubung can be included or classified into the Narcotics group, namely Narcotics group I because the effect it causes is almost the same as Narcotics group I.

2) Who should be responsible

The subject of law in criminal law is *Natuurlijk* person, namely humans so that in the rules that will be added in Law Number 35 of 2009 concerning Narcotics, the users here are emphasized on humans who use the new type of narcotics kecubung.

3) Formulation of Kecubung Criminal Liability Arrangements

By including "Kecubung" in the attachment to group I of Permenkes Number 44 of 2019, the provisions of Article 127 of Law Number 35 the Year 2009 apply to users of Kecubung. So the criminal policy regarding kecubung containing addictive substances is by entering "Kecubung" in the attachment to the group I of Permenkes Number 44 of 2019 concerning new changes to the Narcotics class.

4) Law enforcement prior to the amendment of Permenkes No.44 of 2019

By going through extensive legal interpretations that are broadening the meaning of the Narcotics appendix group I am very helpful in understanding a rule of law. Understanding the importance of the legal discovery is very important for a judge in Indonesia to understand because he does not only function as the mouth of the law but as an independent executor of judicial power so that he must continuously explore and follow every development that occurs in society, while investigators cannot interpreting Law Number 35 of 2009 concerning Narcotics, Investigators can only make efforts to process the Law against the perpetrators who are suspected of committing the Narcotics Crime which has been included in the attachment of Permenkes No.44 of 2019 concerning changes to the Narcotics class of all criminal acts that related to narcotics abuse, including the misuse of new types of narcotics Kecubung, and the case can proceed to the Court and it is up to the Court to decide the case.

5) Law enforcement following the amendment of Permenkes No.44 of 2019

The legality principle contained in article 1 paragraph (1) of the Criminal Code explains that: "An act cannot be punished, except based on the strength of existing criminal legislation, before the act was committed and if after the act was committed there was a change in the law. "The law is used the lightest rule for the defendant" Based on the formulation of the provisions in Article 1 paragraph (1) of the Criminal Code, if the behavior of a person is not recorded in the Law, then that person cannot be convicted, so that the application of the law after the amendment of Permenkes No. 44 of 2019, then the abusers of Kecubung who have been entered or classified into Narcotics category I, are subject to criminal sanctions as referred to in Article 127 (1) of the Narcotics Law No.35 of 2009 concerning Narcotics that Every Abuser of Narcotics Group I shall be sentenced to a maximum imprisonment of 4 (four) years.

CONCLUSION

The criminal policy regarding kecubung containing addictive substances according to Law Number 35 of 2009 concerning Narcotics, which states that kecubung containing

alkaloid substances known as the anesthetic is an addictive substance Narcotics, namely substances whose circulation is prohibited throughout the world and the prohibition is stated in the law. This substance when consumed in excess can cause decreased and altered consciousness, loss of taste, relieve or reduce pain and cause severe dependence or excruciating pain. So that Kecubung can be included or classified into the Narcotics group, namely Narcotics group I because the effect it causes is almost the same as Narcotics group I.

With the existence of Kecubung not yet included in the change in the classification of Narcotics in the attachment to the Minister of Health Regulation No.44 of 2019, the criminal policy regarding *kecubung* which contains addictive substances according to Law Number 35 of 2009 concerning Narcotics is by entering *kecubung* in the attachment to the class. I Minister of Health Regulation Number 44 of 2019 which is new (meaning the next change).

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