



REVIEW OF CRIMINAL LAW ON THE CONSUMPTION OF FOOD AND DRUG CONTAINING NARCOTICS AND PSYCHOTROPICS (ANALYSIS OF DECISION NO. 17 K/MIL/2016)

Ismail Koto
Universitas Muhammadiyah Sumatera Utara
ismailkoto@umsu.ac.id

Abstract

The act of consuming food and drugs containing narcotics and psychotropic substances is very dangerous for health. There are several kinds of dangers caused by consuming narcotics and the users or users of drugs themselves mostly do not know which organs are the effects of consuming drugs. With the regulation of the problem of consuming food and drugs that contain Narkotika and Psychotropik, both in the Criminal Code and Law No. 35 of 2009 concerning Narcotics and also Law No. 5 of 1997 concerning Psychotropics including Presidential Regulation No. 80 of 2017 concerning BPOM. The purpose of this study was to determine the legal arrangements for food and medicine, the legal arrangements for consuming and the study of criminal law for acts. This research is a normative legal research, the nature of a descriptive study that uses secondary data sources that consist of primary, secondary and tertiary legal materials as well as data collection through literature studies as outlined in the form of qualitative analysis. Acts can be convicted if the elements of the criminal act have been fulfilled. All elements of the crime described below constitute a unity. Anyone who commits a criminal offense is threatened with a criminal offense. However, this does not mean that each person who commits the act must be convicted. So that in the future actions such as this case will create deterrence effects for members of the TNI. Acts can be convicted if the elements of the criminal act have been fulfilled. All elements of the crime described below constitute a unity. Anyone who commits a criminal offense is threatened with a criminal offense. However, this does not mean that each person who commits the act must be convicted. So that in the future actions such as this case will create deterrence effects for members of the TNI. Acts can be convicted if the elements of the criminal act have been fulfilled. All elements of the crime described below constitute a unity. Anyone who commits a criminal offense is threatened with a criminal offense. However, this does not mean that each person who commits the act must be convicted. So that in the future actions such as this case will create deterrence effects for members of the TNI.

Keywords: *Criminal Law Study, Legal Provisions for Food and Medicine, Narcotics and Psychotropic Legal Regulations.*

1. INTRODUCTION

Indonesia is a country based on law, not a state based on power. The logical consequence of the existence of the principle of a rule of law is that everything in Indonesia must be regulated by a set of laws and regulations.

In an improvement of human health in Indonesia to create society, it is necessary to have treatment and health services, such as providing narcotics and psychotropic substances. Etymologically, narcotics comes from the Greek narkoum, which means to paralyze or numb (Julianan Lisa and Nengah Sutrisna). , 2013, p. 1). Narcotics are substances or materials that if misused will be dangerous.

Narcotics and psychotropics are hazardous materials or substances when misused. which is regulated in Law no. 35 of 2009 concerning Narcotics and Law no. 5 of 1997 concerning Psychotropics. The purpose of this regulation, apart from being misused, is also to ensure the availability of these hazardous materials or substances. Basically narcotics have efficacy and are useful for use in the fields of medicine, health and medicine and are useful for developmental research, pharmaceutical science or pharmacology itself (Julianan Lisa and Nengah Sutrisna, 2013, p. 1).

The spread of narcotics, psychotropics, and other dangerous substances is no longer said to be an ordinary crime, but has become an extraordinary crime. Narcotics, psychotropics



and other dangerous substances when consumed or used will cause disturbances to the body's organs and will also result in death. 35 of 2009 concerning Narcotics and Law no. 5 of 1997 concerning Psychotropics has already outlined the abuse of narcotics.

The act of consuming food and drugs containing narcotics and psychotropic substances is very dangerous for health. The dangers caused by consuming narcotics are of various kinds and the users or drug users themselves mostly do not know which organs of the body are the effects of consuming drugs. food and drugs containing Narcotics and Psychotropics are contained in the Surah Al Maidah verse 90:

يَتَأْتِيهَا الَّذِينَ ءَامَنُوا إِتْمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَامُ رِجْسٌ مِّنْ

عَمَلِ الشَّيْطَانِ فَأَجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ ﴿٩٠﴾

It means:

"O you who believe, verily (drinking) alcohol, gambling, (sacrificing for) idols, drawing your fate with arrows, are among the actions of Satan. online.com/sura Al-Maidah verse 90. series tadabbur al-Qur'an).

Hadith from Ibn Umar Radhiyallahu Anhu that the Prophet sallallahu 'alaihi wa sallam said; Everything that intoxicates is khamr and all kinds of khamr are haram. Whoever drinks khamr in this world and dies drinking it without repenting, then he will not drink it in the hereafter (HR. Muslim and Ad Daruquthuni).

One example of a case that can be taken is the case of a member of the TNI Dikdik Setyawan with the rank of Serma at the Kodim 0112/Sabang unit consuming food and drugs containing narcotics and psychotropic substances that occurred in 2015 in Sabang, Aceh Province.

In Law no. 35 of 2009 concerning Narcotics Article 127 paragraph (1) paragraph (a) for narcotics abuse of class I with a maximum penalty of 4 (four) years in prison. However, in reality, most of the narcotics and psychotropic abusers are mostly in rehabilitation and/or also do not get rehabilitation such as treatment or care, but are released from prosecution. law.

In accordance with Article 54 of Law no. 35 of 2009 concerning Narcotics states that narcotics addicts and victims of narcotics abuse must undergo medical rehabilitation and social rehabilitation. And Article 37 of Law no. 5 of 1997 concerning Psychotropics states that psychotropic users who suffer from dependence syndrome are obliged to participate in treatment or care.

Criminal provisions in the Narcotics Law, in deciding cases as referred to in paragraph (1), judges are obliged to pay attention to the provisions as referred to in Article 54, Article 55, and Article 103. With the regulation of the problem of consuming food and drugs containing narcotics and psychotropic substances, both in KUHP and Law no. 35 of 2009 concerning Narcotics and also Law no. 5 of 1997 concerning Psychotropics, including Presidential Regulation no. 80 of 2017 concerning BPOM. This shows us that the makers of Laws and Presidential Regulations consider that the act of consuming food and drugs containing Narcotics and Psychotropics is very important for the life and health of the people in Indonesia.

2. RESEARCH METHODS

The research method is a process of collecting and analyzing data that is carried out systematically, to achieve certain goals. Data collection and analysis is carried out naturally, both quantitative and qualitative, experimental and non-experimental, interactive and non-interactive (Joenadi Efendi and Jonny Ibrahim, 2016).

The research used is descriptive analytical which describes the state of something about what and how the existence of legal norms and the workings of legal norms in society. Descriptive research is research that only describes the state of an object or event without an intention to draw conclusions that apply in general (Ida Hanifah, et al, 2018, p. 20).

Sources of data that can be used in conducting this research consist of:



1. Data sourced from Islamic law; namely Al-Qur'an Surah QS. Al Maidah: 90 and HR. Muslim and Ad Daruquthuni
2. Secondary data, namely data or materials obtained from the community and library studies which include:
 - a) Primary legal materials, namely legal materials consisting of regulations. The primary legal materials used are First, the Criminal Code (KUHP). Second, the Military Criminal Code (KUHPM). Third, Law no. 35 of 2009 concerning Narcotics. Fourth, Law no. 5 of 1997 concerning Psychotropics. Fifth, Law no. 31 of 1997 concerning Military Courts. Sixth, Presidential Regulation of the Republic of Indonesia No. 80 of 2017 concerning the Food and Drug Supervisory Agency. Seventh, Law no. 36 of 2009 concerning Health. Eighth, Military Court Decision Number 17 K/MIL/2016).
 - b) Secondary legal materials are in the form of books and legal scientific writings related to the object of research (Zainuddin Ali, 2011). will be lifted.
 - c) Tertiary legal materials are materials that provide instructions or explanations for primary legal materials and secondary legal materials such as legal dictionaries and encyclopedias.

Data collection tools used in research can be done in two ways, namely:

1. *Offline*; namely collecting library research data directly by visiting bookstores, libraries (both inside and outside the University of Muhammadiyah North Sumatra campus) in order to collect secondary data needed in the research in question.
2. *On line*; namely a literature study (library research) conducted by means of searching through internet media in order to collect secondary data needed in the research in question (Ida Hanifah, et al, 2018)

Data analysis describes how to utilize the collected data to be used in solving research problems. The types of data analysis consist of quantitative and qualitative analysis. (2018).

3. RESULTS AND DISCUSSION

Legal Regulations Against Food and Drugs Containing Narcotics and Psychotropics

Legal regulations regarding food and drugs containing narcotics and psychotropic substances are regulated in Presidential Regulation no. 80 of 2017 concerning the Food and Drug Supervisory Agency. in Article 13 and 21. Types of raw materials prohibited for food and drugs are contained in the Regulation of the Food and Drug Supervisory Agency no. 7 of 2018 concerning raw materials that are prohibited in processed food Article 3 paragraph (1), paragraph (2) and paragraph (3).

BPOM's mission in protecting the public from drug and food products that endanger health is outlined in a full spectrum surveillance system starting from pre-market to post-market control accompanied by law enforcement and community empowerment efforts (Jumpa Malim Simamarta, 2016, p. 11).

The Criminal Code does not place food and drugs containing narcotics and psychotropic substances in it, but in Presidential Regulation no. 80 of 2017 concerning the Food and Drug Supervisory Agency and Law no. 36 of 2009 concerning Health. In the Health Law Article 102 paragraph (1) and paragraph (2) which reads as follows "Paragraph (1) the use of pharmaceutical preparations in the form of narcotics and psychotropics can only be carried out based on a doctor's or dentist's prescription and is prohibited from being misused"

Paragraph (2) provisions regarding narcotics and psychotropics are implemented in accordance with the provisions of the legislation (Article 102 paragraphs (1) and (2) of Law Number 36 Year 2009 concerning Health).

However, the supervision of food and drugs is regulated in the Regulation of the Food and Drug Supervisory Agency No. 7 of 2018 concerning raw materials that are prohibited in processed food are contained in Article 4. The imposition of sanctions on food and drugs containing narcotics and psychotropic substances in the Regulation of the Food and Drug Supervisory Agency does not exist, but the task of the Food and Drug Supervisory Agency is to supervise only and BPOM does not have the authority to provide criminal provisions.

Legal Regulations in Consuming Food and Drugs Containing Narcotics and Psychotropics



Consuming food and drugs containing narcotics and psychotropic substances is regulated in Presidential Regulation Number 80 of 2017 concerning the Food and Drug Supervisory Agency. Consuming food and drugs containing narcotics and psychotropics by members of the TNI, namely Serma Dikdik Setyawan, is very dangerous for health users, substances mixed in food and drugs do not directly cause death, but slowly face death by suffering from illness.

The use of narcotics has been rigidly regulated in Law no. 35 of 2009 because it is determined and regulated in Article 7 that narcotics can only be used for the benefit of health services and/or the development of science and technology, even Article 8 paragraph (1) stipulates that narcotics group I is prohibited from being used for the benefit of health services (AR Sujono and Bony Daniel, 2011, pp. 72-73).

Specifically in Article 1 of Law Number 18 of 2012 concerning food, regarding food safety, namely "Food safety is the conditions and efforts needed to prevent food from being contaminated with biological, chemical, and other objects that can interfere, harm, and endanger human health and do not conflict with religion, belief, and community culture so that it is safe for consumption" (Article 1 of Law No. 18 of 2012 concerning Food).

Meanwhile, in the Regulation of the Food and Drug Supervisory Agency Number 7 of 2018 concerning raw materials that are prohibited in processed food, it is contained in Article 2. Violations of the distribution of food that are not fit for consumption are also regulated in Article 90 of Law No. 18 of 2012 on food (Article 90 of Law No. 18 of 2012 on Food). 7 of 2018, Article 5 (Article 5 of the Regulation of the Food and Drug Supervisory Agency Number 7 of 2018 concerning raw materials that are prohibited in processed food).

Review of Criminal Law Against Consumption of Food and Drugs Containing Narcotics and Psychotropics (Analysis of Decision No. 17 K/MIL/2016)

An act according to the Big Indonesian Dictionary is something that is done (done). It can also be said that criminal acts are detrimental to society, so anti-social, therefore these acts are strictly prohibited or prohibited (Moeljatno, 2015, p. 3). something or doing something that is prohibited and in a negative form, meaning not doing something that is required (Teguh Prasetyo, 2015, p. 55). Regarding decision no. 17 K/MIL/2016 against members of the TNI who are not proven to have abused class I narcotics for themselves and were released on the grounds that 2 (two) pieces of evidence were not sufficient. This happened to a member of the TNI, Serma Dikdik Setyawan, in the position of Bamin Komsos Koramil 02/SK Kodim 0112/Sabang. Most of the people of Aceh every time they cook beef or goat mixed with marijuana/marijuana seeds to make it soft and it is a recipe for cooking spices. However, TNI member Serma Dikdik Setyawan knows the habits of local residents

In addition to the negative effects, marijuana has a positive impact such as plants that are environmentally friendly, anti-pests, easy to plant, and has many benefits. By lowering the levels of THC (tetrahydrocannabinol) cannabis can be used to make textiles, paper, and food. Meanwhile, the THC levels of cannabis growing in Indonesia have not been measured. THC is one of the substances that can relieve pain, for example in patients with glaucoma. THC has an analgesic effect, which in low doses alone has an impact on patients (Ernik Isnaini, 2009, pp. 47-48). The military court is a judicial institution in Indonesia. the military body has a very heavy duty. In addition to ensuring a fair legal process for military members (due process of law) and enforcing discipline for members of the military, military courts must also ensure that these legal mechanisms also protect the civil rights of military members (Dini Dwi Heniarti, 2017, p. 2). One of the cases decided by the military court was Serma Dikdik Setyawan who is a member of the TNI with the position of Bamin Komsos Koramil 02/SK Kodim 0112/Sabang unit. The defendant was not proven to have committed or participated in committing a class I narcotics abuser for himself, which in February 2015 took place at Kodim 0112/Sabang.

The Military Court I-01 Banda Aceh decided the case of class I narcotics abuser for himself which was carried out by Serma Dikdik Setyawan, namely the Military Court I-01 Banda Aceh. During the trial, the Military Prosecutor I-01 Banda Aceh stated that the criminal charges against Serma Dikdik Setyawan were as follows:

- a. The defendant has been legally and convincingly proven guilty of committing a crime: Any abuse of narcotics class I for oneself, as regulated and threatened with a criminal offense in Article 127 paragraph (1) letter a of Law Number 35 of 2009 concerning Narcotics.
- b. Request that the Defendant be sentenced as follows:



Principal Criminal: Imprisonment for 1 (one) year 6 (six) months, deducted by the temporary detention period that has been served by the Defendant.

Additional Criminal: Dismissal from the military service of the Indonesian Army.

c. Determine evidence in the form of:

Goods :

- 1 (one) rapid test urine brand shredded THC code.

Snatched to be destroyed

-1 (one) sheet of drug urine test certificate from UPTD Banda Aceh Health Laboratory Center Number 14,455/949/BLK/II/205 dated 17 February 2015 against the urine of Serma Dikdik Setyawan NRP. 21000042131280 position of Bamin Komsos Koramil 02/SK, Unit Kodim 0112/Sabang with positive urine test results from marijuana abuse.

Still attached to the case file

d. Burden the defendant to pay court fees of Rp. 10,000 (ten thousand rupiah).

Then the Military Court Judge I-01 Banda Aceh issued a decision No. 147-K/PMI-01/AD/VII/2015 dated November 12, 2015 which is as follows:

a. Stated that the defendant was Dikdik Setyawan, the rank of Serma NRP. 21000042131280, not legally and convincingly proven guilty of committing a criminal act of narcotics abuse of class I for himself.

b. Exonerated the defendant from all charges.

c. Restoring all the rights of the accused in his ability, position, dignity and worth.

d. Determine the evidence in the form of:

Letter:

- 1 (one) sheet of drug test certificate from UPTD Banda Aceh Health Laboratory Number : 4.455/949/BLK/II/2015 dated 17 February 2015 against urine on behalf of Serma Dikdik Setyawan NRP. 21000042131280 position of Bamin Komsos Koramil 02/SK, Unit Kodim 0112/Sabang with positive urine test results from marijuana abuse.

Still attached to the case file.

Goods :

- 1 (one) rapid test urine brand shredded THC code.

Seized for destruction.

Charges case fees to the state (Military Court Decision I-01 Banda Aceh Number 147 K/PMI-01/AD/VII/2015: 20).

Based on the decision of the Military Court Judges I-01 Banda Aceh issued, Military Oditur I-01 Banda Aceh submitted a request for cassation to the Supreme Court on November 17, 2015. Taking into account the memorandum of cassation dated November 24, 2015 from the Military Prosecutor I-01 Banda Aceh received at the Registrar's Office Military Court I-01 Banda Aceh on November 26, 2015. The reasons put forward by the appeal applicant/military prosecutor I-01 Banda Aceh at the Military Court I-01 Banda Aceh are as follows:

a. Referring to the Appendix to the Decree of the Minister of Health No. 194/Menkes/SK/VI/2012 dated 12 June 2015, regarding the list of narcotics and psychotropic examination laboratories within the Ministry of Health of the Republic of Indonesia, letter a number 5 UPTD Aceh Provincial Health Laboratory Center on Jalan Tengku HM. Daud Beureuh No. 168 Banda Aceh 23824, which is now named UPTD Banda Aceh Health Laboratory Center, is an official institution appointed by the Minister of Health to conduct narcotics and psychotropic examinations.

b. That the Drug Urine Test Certificate from the UPTD Banda Aceh Health Laboratory Number 4.455/949/BLK/II/2015 dated 17 February 2015 against urine on behalf of Serma Dikdik Setyawan, NRP. 21000042131280, Position Bamin Komsos, Koramil 02/SK, Unit Kodim 0112/Sabang with positive urine test results from marijuana users (THC) is an official letter that can be used as evidence in the form of letters and Pro Justisia regardless of how the operational standards and laboratory procedures are carried out by the UPTD Banda Health Laboratory Center Aceh is therefore an authority given by the Minister of Health in the Decree of the Minister of Health of the Republic of Indonesia Number 194/Menkes/SK/VI/2012 dated 15 June 2012 concerning the appointment of a Narcotics and Psychotropic Examination Laboratory to the UPTD Banda Aceh Health Laboratory Center.

c. Whereas previously the Military Court I-01 Banda Aceh had also tried narcotics abuse cases using a certificate of urine examination results from the UPTD Banda Aceh Health Laboratory



as evidence in the form of letters from the Aceh Province National Narcotics Agency and from several existing public hospitals and polyclinics. in Aceh Province include:

- 1) In the case of the Defendant on behalf of Kopka Baharuddin, NRP.3910001631068, Babinsa Koramil 12/Montasik, Kodim 0101/BS, with a Certificate of Urine Examination Result from BNNP Aceh Number SKTUN/003/II/2013/BNNP-ACEH dated 27 February 2013, with a warning the decision of 1 (one) year and 8 (eight) months in prison and was dismissed from the Army Military Service (Supreme Court Decision Number Reg 143K/Mil/2014).

Whereas the different considerations of the Panel of Judges from the same Court (the same Panel of Judges) on the Narcotics case in terms of the location of the urine examination raises the question "Which institution is authorized (Pro Justitia) to conduct urine examinations for perpetrators of narcotics crimes and the consideration of the Panel of Judges in several cases." Narcotics cases seem to be according to taste and arbitrarily so that there are defendants who benefit and some are harmed.

The third objection is regarding the consideration that in the Defendant's case there is no evidence, either in the form of witness statements who know when and where the food in the form of curry/goat curry was processed and neither the facts of the Defendant's intention or intention to process or ask another person or party to process curry/goulash food. goats seasoned with ingredients in the form of elements or substances containing narcotics and the phenomenon of conditions in certain communities which in processing food in the form of meat mixed with marijuana elements need to be proven in court so that the Panel of Judges concludes according to Article 171 of Law Number 31 of 1997 concerning Military Courts that the judge may not impose a sentence on a person except with at least two valid pieces of evidence, The considerations of the applicant for cassation are as follows:

- a. That the legal facts at trial the defendant admitted that since serving at Kodim 0112/Sabang then serving as Babinsa at Koramil02/SK, he knows the habits of local residents when cooking meat for religious holidays or family parties often using cannabis seeds and leaves as a spice to tenderize beef or goats, then at the beginning of 2014 during the celebration of the Prophet Muhammad SAW almost every village assisted by the defendant invited to celebrate the Prophet's Birthday for 3 (three) consecutive months and the Defendant often ate curry or goat curry on the grounds of respecting and glorifying the Maulid event which was highly honored by the people of Sabang (numbers 11, 12 and 13 on page 13 of the copy of the decision and according to additional information from expert witnesses on behalf of Dr. Siti Dara Safitri, M.Kes.
- b. Whereas the facts at the trial stated that the Defendant admitted that the urine test result of the defendant was positive for marijuana/marijuana (THC) because of the curry or goat curry that the defendant ate or was delivered by the people of the city of Sabang to the Koramil02/SK office during the celebration of the Prophet Muhammad SAW's Birthday.
- c. Whereas as a Babinsa, the accused should have supported the government's program in terms of preventing the circulation of narcotics by providing an understanding to the target community in the Koramil 02/SK area not to use any kind of narcotics.
- d. Whereas if in this case the Panel of Judges in their deliberations mentions based on Article 171 of Law Number 31 of 1997 concerning Military Courts that a Judge may not impose a crime on a person except with at least two valid pieces of evidence, it will be very contrary to the settlement of cases. previous narcotics cases that have been sentenced to corporal or additional punishments in the form of dismissal from the TNI service only with evidence of a certificate of urine test results that are not "pro justitia" and test equipment used without clear standards and without any information from witnesses who know, Seeing that the defendant has consumed narcotics (examples of the case above) so that according to the decision of the previous case, the Cassation Applicant requests that the defendant be sentenced to a criminal sentence in accordance with the demands of the Cassation Applicant at the first trial.
- a. Against the reasons put forward by the Cassation applicant/military prosecutor I-01 Banda Aceh. The Panel of Judges of the Supreme Court cannot justify the reasons put forward by the applicant/Military Auditor I-01 Banda Aceh, which with the consideration of the Panel of Judges of the Supreme Court as follows:
 - 1) That judex facti does not misapply the law:



That the judex facti has examined and decided the a quo case carefully and stated that the defendant is not legally and convincingly proven to have committed a criminal act as indicted by the Military Prosecutor

Whereas with evidence in the form of Certificate of Urine Analysis Number 4.455/949/BLK/II/2015 dated 17 February 2015 from UPTD Balai Health Laboratory Banda Aceh signed by dr. Siti Dra. Safitri, M.Kes. which states that the defendant's urine test result is positive for marijuana/marijuana, does not mean that the defendant has smoked marijuana/marijuana for sure, because specifically for certain areas, there are mixtures of cooking spices mixed/mixed with cannabis seed powder. That therefore the legal considerations of judex facti must be stated to have been properly and correctly considered, and the petition from the petitioner for the cassation to the Military Prosecutor is declared unjustified. still needs to be corrected because the sentence for committing a criminal act of narcotics abuse of class I for oneself is a sentence that shows the perpetrator of the crime / the person from the narcotics user himself, even though the content of a qualification should lead to what the perpetrator did, so that the qualification of the act becomes clear meaning or direction. Therefore the qualifications in the case in casu must be improved to commit a criminal act of narcotics abuser class I for oneself. so that the qualification of the act becomes clear in its meaning or direction. Therefore the qualifications in the case in casu must be improved to commit a criminal act of narcotics abuser class I for oneself. so that the qualification of the act becomes clear in its meaning or direction. Therefore the qualifications in the case in casu must be improved to commit a criminal act of narcotics abuser class I for oneself.

Considering that based on the above considerations, the petition for cassation from the petitioner for cassation/Military Auditor must be rejected, however, Military Court I-01 Banda Aceh Number: 147-K/PMI-01/AD/VII/2015 dated 12 November 2015 must be corrected as a qualification. the crime, so that the warning reads as stated below.

Considering whereas since the defendant was acquitted of the charges, the costs of the case at the Cassation level were borne by the state.

Based on the results of the considerations of the Panel of Judges of the Supreme Court with decision number 17 K/MIL/2016 are as follows:

Reject the Cassation application from the Military Prosecutor's Cassation applicant at the Military Oditurat I-01 Banda Aceh;

Correcting the Decision of the Military Court I-01 Banda Aceh Number: 147 K/PMI-01/AD/VII/2015 dated 12 November 2015 is just a qualification for the crime, so the full details are as follows:

- a. The defendants stated above are: Dikdik Setyawan, Serma NRP. 21000042131280, not legally and convincingly proven guilty of committing a crime: "abuse of narcotics class I for oneself";
- b. acquit the defendant of all charges;
- c. Restore all rights of the accused in his ability, position, dignity and worth;
- d. Determine evidence in the form of;

Letter: 1 (one) sheet of Drug Urine Test Certificate from UPTD Banda Aceh Health Laboratory Number 14,455/949/BLK/II/2015 dated 17 February 2015 against urine on behalf of Serma Dikdik Setyawan NRP. 21000042131280 the position of Bamin Komsos Koramil 02/SK, Kodim unit 0112/Sabang with a positive urine test result from marijuana abuse is still attached to the goods case file;

1 (one) rapid test urine brand shredded THC code.

Snatched to be destroyed

Imposing case fees at all levels of the judiciary and at this level of cassation to the state (Supreme Court Decision Number 17 K/MIL/2016: 16)

Regarding the determination of which actions are considered as criminal acts, we adhere to a principle called the principle of legality, namely the principle that determines that every criminal act must be determined as such by a rule of law (Article 1 paragraph 1 of the Criminal Code.) or at least by a rule of law that already exists and applies to the defendant (Article 14 paragraph 2 of the previous UUDS)

"Anyone who commits a criminal act is threatened with a sentence, but this does not mean that everyone who commits the act must then be punished. This is because to convict someone in addition to committing a prohibited act, there is a principle that reads that there is no penalty if there is no mistake, for example Article 44 and Article 48. must know at least to know there is a prohibition. If what is referred to in the 1st of the formulation of the criminal law above is about a criminal act (criminal act), then what is referred to in the 2nd is



about criminal legal liability (*criminal liability* or criminal responsibility). All regulations concerning the two fields above constitute what is called material criminal law (substantive criminal law) because of the content of criminal law itself. On the other hand, what is referred to in 3 is regarding the method or procedure for bringing before the court people suspected of committing a criminal act. Therefore, this section of criminal law is called formal criminal law (criminal procedure, criminal procedural law). Usually, if it is called criminal law, then what is meant is material criminal law (Moeljatno, 2015, pp. 5-7).

However, this does not mean that every act that can occur due to the intention and negligence of the maker is made a crime. In general, only actions that can occur due to the intention of the maker are made into criminal acts. considered quite serious (Chairul Huda, 2011, p. 35). Criminal threats are not aimed at the prohibited act, but are aimed at the person who commits it. Indonesian criminal law views that an act can be punished if the elements of the criminal act in question have been fulfilled. Even one element that is not proven can cause the defendant to be acquitted by the court. However, even innocent defendants should be ordered to undergo treatment and care.

4. CONCLUSION

That the legal regulation regarding food and drugs containing narcotics and psychotropic substances is regulated in presidential regulation no. 80 of 2017 concerning the Food and Drug Supervisory Agency Article 13 and Article 21, consuming it can cause health problems, but criminal acts are punishable by a crime, although that does not mean the act is then criminalized. This act must be held accountable.

REFERENCES

- Alquran Online <https://mtf-online.com/surah-al-maidah-ayat-90-seri-tadabbur-alqur'an>. Accessed on Monday 25 March 2019. 11.30 WIB.
- AR. Sujono, dan Bony Daniel. Cetakan Pertama. 2011. Komentari dan Pembahasan Undang-undang Nomor 35 Tahun 2009 tentang Narkotika. Jakarta: Sinar Grafika.
- Chairul Huda. 2011. Dari Tiada Pidana Tanpa Kesalahan Tiada Pertanggungjawaban Pidana Tanpa Kesalahan
- Dini Dewi Heniarti. Cetakan Kesatu. 2017. Sistem Peradilan Militer Di Indonesia. Bandung: PT Refika Aditama.
- Enik Isnaini. "Penggunaan Ganja Dalam Ilmu Pengobatan Menurut Undang-undang Nomor 35 Tahun 2009 Tentang Narkotika". Jurnal Independent Vol. 5 No. 2.
- Frans Maramis. Cetakan Kedua. 2016. Hukum Pidana Umum dan Tertulis di Indonesia. Depok: PT Rajagrafindo Persada.
- Gatut Supramono. Hukum Narkotika Indonesia. 2009. Jakarta: Djambatan.
- Ida Hanifah. dkk. 2018. Pedoman Penulisan Tugas Akhir Mahasiswa. Medan: Pustaka Prima.
- Irwan Jasa Tarigan. 2017. Narkotika Dan Penanggulangannya. Yogyakarta: Deepublish.
- Ismu Gunadi dan Jonaedi Efendi. 2014. Cepat & Mudah Memahami Hukum Pidana. Jakarta: Kencana.
- Joenadi Efendi dan Johnny Ibrahim. 2016. Metode Penelitian Hukum Normatif dan Empiris. Depok: Prenadamedia Group.
- Juliana Lisa dan Nengah Sutrisna. Cetakan Pertama. 2013. Narkotika Psikotropika dan Gangguan Jiwa, Yogyakarta: Nuha Medika.
- Jumpa Malam Simamarta. 2016. "Pelaksanaan Tugas Pengawas Obat Dan Makanan (BPOM) Dalam Pengawasan Pangan Yang Mengandung Bahan Berbahaya Di Kota Pekanbaru". Jurnal JOM Fakultas Hukum Vol. III No. 1.
- M. Ali Zaidan. 2015. Menuju Pembaruan Hukum Pidana. Jakarta: Sinar Grafika.
- Mahrus Ali. Cetakan Ketiga. 2015. Dasar-Dasar Hukum Pidana. Jakarta: Sinar Grafika.
- Moeljatno. 2015. Asas-asas Hukum Pidana. Jakarta: Rineka Cipta.
- P.A.F Lamintang dan Franciscus Theojunior Lamintang. 2018. Dasar-Dasar Hukum Pidana Di Indonesia. Jakarta: Sinar Grafika.
- Pengertian Narkotika melalui <https://id.m.wikipedia.org/wiki/narkotika>. Accessed on Monday, 18 February 2021 08.34 WIB.



- Peraturan Badan Pengawas Obat dan Makanan Nomor 7 Tahun 2018 tentang Bahan Baku Yang Dilarang Dalam Pangan Olahan.
- Peraturan Presiden Nomor 80 Tahun 2017 tentang Badan Pengawas Obat dan Makanan.
- Putusan Mahkamah Agung Nomor 17 K/MIL/2016
- Putusan Pengadilan Militer I-01 Banda Aceh Nomor 147-K/PMI-01/AD/VII/2015.
- Russel Butarbutar. 2016. Kompilasi Hukum Pidana dan Aplikasinya di Masyarakat. Bekasi: Gramata Publishing.
- Siswanto S. 2012. Politik Hukum dalam Undang-undang Narkotika (UU Nomor 35 Tahun 2009). Jakarta: PT Rineka Cipta.
- Syafrina Maisusri. 2016. "Penegakan Hukum Terhadap Tindak Pidana Peredaran Obat Impor Yang Tidak Memiliki Izin Edar Oleh Penyidik Pegawai Negeri Sipil Balai Besar Pengawas Obat Dan Makanan Di Pekanbaru". Jurnal JOM Fakultas Hukum Volume III.
- Teguh Prasetyo. 2015. Hukum Pidana. Depok: Rajagrafindo Persada.
- Undang-undang Nomor 18 Tahun 2012 Tentang Pangan.
- Undang-undang Nomor 31 Tahun 1997 Tentang Peradilan Militer.
- Undang-undang Nomor 35 Tahun 2009 Tentang Narkotika.
- Undang-undang Nomor 36 Tahun 2009 Tentang Kesehatan.
- Undang-undang Nomor 5 Tahun 1997 Tentang Psikotropika.
- Zainuddin Ali. 2011. Metode Penelitian Hukum. Jakarta: Sinar Grafika.
- Zuleha. 2017. Dasar-dasar Hukum Pidana. Yogyakarta: Deepublish.