

The Essence of the Legality Principle is a Consideration in the Process of Proving the Narcotics Crime

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Abstract: This research aims to analyze the legality principle's essence, where this has become a consideration in proving narcotics crime cases in several regencies and cities in South Sulawesi Province. This research is a non-doctrinal legal research type. The approach used in this study includes three legal science environments: the legal philosophy approach, the legal theory approach, and the dogmatic legal approach. This study population was Police Narcotics Investigators, Public Prosecutors, Advocates, and District Court Judges. The number of samples as respondents was 100 people. Furthermore, the qualitative descriptive analysis was carried out on the research results by referring to the theories used in this study. Also, quantitative analysis was carried out on numerical data, then presented through a frequency distribution table. The results of this study indicate that the essence of the legality principle in the process of proving narcotics crime has not yet become a barometer and or benchmark used by law enforcers in the proving process of a narcotics crime. This happens because, factually or empirically, it has not become the base for determining whether the suspect made a mistake or not, based on Law No. 35 of 2009 and other laws and regulations. Based on these conclusions, it is hoped that officials in handling narcotics crimes can further improve their understanding of criminal law to thoroughly know and understand the essence and substance of the principle of legality in a constitutional state.

Keywords: Consideration, Essence, Legality Principle, Narcotics Crime, Proving.

Date of Submission: 15-01-2021

Date of Acceptance: 31-01-2021

I. INTRODUCTION

The phenomenon of law enforcement of narcotics crime appears on the surface and becomes a severe observation by the public. One of them is related to the process of evidence in handling narcotics crime cases. Furthermore, the evidentiary process is seen as ignoring the legality principle as one of the principles that are the foundation of law enforcement, both in criminal acts in general and in narcotics crime (Dewi, 2019:66).

Narcotics crime is a special crime regulated normatively in the Law of the Republic of Indonesia Number 35 of 2009 on Narcotics (hereinafter referred to as Law No. 35 of 2009). The purpose of establishing this regulation is to encourage law enforcement in the field of narcotics abuse. Also, to provide legal protection to victims of narcotics so that the law enforcement process itself must consider the legality principle in proving the criminal case concerned (Moeliono & Wulandari, 2015:598).

The process of investigating a narcotics crime case must reveal accurate and valid evidence that can be used as a basis for qualifying the actions and/or mistakes of the suspect in the narcotics crime incident (Gunawan, Ali, & Rasyid, 2019:122). This is closely related to the legality principle, which implies whether or not there is a criminal act and whether there is a material factual error with valid evidence (Ante, 2013:98).

The principle of legality is one of the foundations of an essential rule of law as a legal step to determine whether someone is said to have violated the law and is confronted with a criminal liability process (Zaini, 2020:20). This is by the idea of the principle of legality itself, which states that there is no crime if it is not regulated in advance in the law. This is the basic principle of the rule of law, namely providing justice, benefit, and legal certainty (Wantu, 2012:480).

For this reason, in the handling process, the investigation of cases of narcotics crime is deemed necessary to pay attention to the principle of legality. Also, it must pay attention to valid evidence to determine the appropriate qualifications or not to determine whether a suspect in the case is determined. This is important considering the specificities of narcotics crime as regulated in Law No. 35 of 2009.

The need for the legality principle to be a guideline in the criminal law enforcement process, as based on Article 1 section (1) of Law of the Republic of Indonesia Number 1 of 1960 on Amendment of the Criminal Code (hereinafter referred to as Law No. 1 of 1960), regulates that "*no act shall be punished unless by virtue of a prior statutory penal provision.*"

From the explanation above, legal experts have interpreted the provisions above to absorb the normalized legality principle in the provisions of criminal law, as a principle in criminal law enforcement in Indonesia with a position as *lex generalis* (Rogahang, 2017:7).

Interestingly, law enforcement in the field of narcotics crimes in Indonesia is very intensively carried out by law enforcement officers in all corners of the Republic of Indonesia's territory (Akbar, 2020:2020). This is because these crimes are considered rampant and occur a lot to become one of the objects of research on the principle of legality in the process of proof.

Narcotics abuse has become a national problem in the Unitary State of the Republic of Indonesia. Based on research results, the National Narcotics Agency (BNN) collaborates with the University of Indonesia Health Research Center, where Indonesia's narcotics abuse is in a state of emergency. This is because it shows the spectacular numbers from 3.8 to 4.1 million people who have used narcotics (BNN & UI, 2014:22).

In fact or empirically, narcotics crimes are on the rise. As evidenced by the five sample regencies and cities studied in South Sulawesi Province, it turns out that from 2015 to 2019 found 3,147 cases of narcotics crimes have gone through the criminal justice process. Of the 3,147 criminal narcotics cases referred to, after going through the judicial process according to *locus delicti* and *tempus delicti*, 3,101 cases have been tried, so 46 cases are still in process.¹

This quantity figure is very spectacular with the number of narcotics crimes that occur, so it must be a grave concern by all parties, not only the government or law enforcement officials, but also the public's attention. Public participation is required in reporting or informing indications of these crimes.

A large number of narcotics crimes in Indonesia and particularly in South Sulawesi Province and more specifically in the five regencies and cities that are the research locations, show that the crime in question is an extraordinary crime. It is necessary to have legal instruments and structures that can minimize the prevalence of these crimes (Beridiansyah, 2016:242).

This fact is what spurs researchers' attention to conduct further research on the principle of legality as a legal principle that should serve as a guideline and reference for legal officers in the process of investigating, examining, and proving general crimes and particularly in the field of narcotics.

Based on the description above, this study aims to analyze the essence of the legality principle further. This has become a consideration in proving narcotics crime cases in several regencies and cities in South Sulawesi Province. The benefit of this research is that it can be used as input for the government, especially law enforcers in investigating criminal cases of narcotics, to pay attention to the legality principle as one of the universally applicable legal principles in the process proof. Also, it provides input to the broader community so that they are aware of the existence of legal principles in criminal law that can protect indications of the arbitrariness of law enforcement officers in the process of enforcing the narcotics crime law.

II. RESEARCH METHODS

This research is a non-doctrinal legal research type. Non-doctrinal legal research is also called empirical legal or sociology of law research, which examines law from an empirical approach to interpreting the law as a symptom or even a social reality in legal society's dynamics. According to Syharuddin Nawi (2014:9), juridical or empirical normative legal research is legal research that combines normative legal research and social or empirical law. In this study, the researchers combined the two types of research.

The approach used includes three legal science environments: the legal philosophy approach, the legal theory approach, and the dogmatic legal approach. The Philosophy of Law approach is intended to analyze this legal research axiologically by emphasizing legal science's actual value (Qamar & Rezah, 2020:75). The legal theory approach is intended to study and analyze this research object from a normative ideal point of view. The dogmatic legal approach is intended to study and analyze legal norms that are the research studies' object.

This research was conducted in five regencies and cities in South Sulawesi Province, including:

1. Makassar City;
2. Parapare City;
3. Palopo City;
4. Bone Regency; and
5. Sidenreng Rappang Regency.

This study population was Police Narcotics Investigators, Public Prosecutors, Advocates, and District Court Judges. The number of samples as respondents was 100 people who were determined and randomized proportionally, namely:

1. Police Narcotics Investigators, as many as 50 people;
2. Public Prosecutors, as many 15 people;
3. Advocates, as many 25 people; and

¹Field research data at the South Sulawesi Police Special Criminal Investigation Directorate, 2020.

4. District Court Judges, as many 10 people.

The types of data used in this study are as follows:

1. Primary data, namely the main data, is the primary source of discussion and analysis in this study.
2. Secondary data, namely supporting and complementary data, in writing this article.

The data sources in this study are as follows:

1. Primary data is obtained directly from the research location, which has been designated as the research sample.
2. Secondary data, obtained through official police agency documents, reference books, and law libraries.

The techniques used in collecting the data needed in this study are as follows:

1. Legal documentation, namely compiling legal documentation from several official government agencies regarding narcotics crime in South Sulawesi Province from regencies and cities designated as research samples.
2. Legal literature, namely collecting legal literature in legal references and statutory regulations in narcotics and scientific journal articles.
3. Direct and closed interviews, namely conducting interviews using a questionnaire with several related parties who have been designated as samples and research respondents

After the research data was collected, data validation were carried out. Furthermore, qualitative descriptive analysis was carried out on the research results by referring to the theories used in this study. Also, quantitative analysis was carried out on numerical data, then presented through a frequency distribution table.

III. RESULTS AND DISCUSSION

Recognizing the dangers of using Narcotics, Law No. 35 of 2009 clearly states that Narcotics abuse is a criminal act, and the perpetrator is subject to criminal sanctions. Therefore, not only narcotics abuse is classified as a criminal offense, but also the distributors. As for the qualifications for criminal acts of abuse and distribution of narcotics along with criminal sanctions according to Law No. 35 of 2009, including:

1. Any person without right or against the law planting, maintain, possess, store, control, or provide Narcotics Category I in the form of plants is based on Article 111;
2. Any person without right or against the law owning, storing, controlling, or providing Narcotics Category I, II, and III not a plant is based on Article 112, Article 117, and Article 122;
3. Any person without right or against the law produce, import, export, or distribute Narcotics Category I, II, and III is based on Article 113, Article 118, and Article 123;
4. Any person without right or against the law offering to be sold, selling, buying, receiving, brokered in the sale and purchasing, exchanging, or giving Narcotics Category I, II, and III is based on Article 114, Article 119, and Article 124;
5. Any person without right or against the law carrying, deliver, transport, or transit Narcotics Category I, II, and III is based on Article 115, Article 120, and Article 125;
6. Any person without right or against the law provide Narcotics Category I, II, and III against others or give the Narcotics Category I, II, and III to be used by another person is based on Article 116, Article 121, and Article 126;
7. Every abusers Narcotics Category I, II, and III for themselves is based on Article 127;
8. The parent or guardians of addicts who are not old enough who intentionally do not report is based on Article 128;
9. Any person without right or against the law owning, storing, controlling, or providing; produce, import, export, or distribute; offering to be sold, selling, buying, receiving, brokered in the sale and purchasing, exchanging, or giving; or carrying, deliver, transport, or transit Narcotics Precursor for the manufacture of Narcotics is based on Article 129.
10. The corporation and Managers without right or against the law as referred to in Article 111, Article 112, Article 113, Article 114, Article 115, Article 116, Article 117, Article 118, Article 119, Article 120, Article 121, Article 122, Article 123, Article 124, Article 125, Article 126, and Article 129 is based on Article 130;
11. Any person who intentionally does not report a condition without right or against the law as referred to in Article 111, Article 112, Article 113, Article 114, Article 115, Article 116, Article 117, Article 118, Article 119, Article 120, Article 121, Article 122, Article 123, Article 124, Article 125, Article 126, Article 127 section (1), Article 128 section (1), dan Article 129 is based on Article 131;
12. Any person who wants to carry out an attempt or conspiracy to commit the crime of Narcotics and Narcotics Precursor as referred to in Article 111, Pasal 112, Article 113, Article 114, Article 115, Article 116, Article 117, Article 118, Article 119, Article 120, Article 121, Article 122, Article 123, Article 124, Article 125, Article 126, and Article 129 is based on Article 132;
13. Any person who orders, gives/promises something, gives an opportunity, recommends, provides facilities, impose by threat, impose by violence, practices tricks, or persuade children not old enough to commit a

criminal act as referred to in Article 111, Article 112, Article 113, Article 114, Article 115, Article 116, Article 117, Article 118, Article 119, Article 120, Article 121, Article 122, Article 123, Article 124, Article 125, Article 126, and Article 129, or persuade children not old enough to using Narcotics is based on Article 133;

14. Any Narcotics addicts who are old enough and intentionally not self-report or the families of Narcotics addicts who intentionally do not report is based on Article 134;
 15. Any Managers of the Pharmaceutical Industry that is not perform the obligation include a label on the packaging of narcotics, either in the form of medicines and raw materials of Narcotics is based on Article 135;
 16. Any person who receive the placement, payments or expenditures, safekeeping, exchange, concealment or disguise of investments, deposits or transfers, grants, inheritance, property, or money, objects or assets in the form of a moving object or immovable, tangible or intangible, which is known to be derived from the Narcotics crime and/or Narcotics Precursor crime is based on Article 137;
 17. Any person who obstructs or complicate the investigation and prosecution and examination of the Narcotics crime and/or of Narcotics Precursor in front of the trial court is based on Article 138;
 18. Any skipper or captain pilot who heed the criminal activities of Narcotics and/or Narcotics Precursor crime is based on Article 139;
 19. Any civil servant investigator, Police Investigator, and National Narcotics Agency Investigator, and Head of the State Prosecutors who heed the criminal activities of Narcotics and/or Narcotics Precursor crime is based on Article 140 and Article 141;
 20. Any laboratory staff who falsify test results or against the law not carry out their obligation to report their test results to the investigator or public prosecutor is based on Article 142;
 22. Any witnesses who gave incorrect information on the investigation of the Narcotics crime and/or of Narcotics Precursor in front of the trial court is based on Article 143;
 23. Any foreign citizens who commit the Narcotics crime and/or of Narcotics Precursor is based on Article 146;
- Qualifications of the abuse and distribution of narcotics as subjects of criminal acts in the form of:
1. Person;
 2. Company.

Based on Article 43 of Law No. 35 of 2009, regulates that:

- (1) Delivery of Narcotics can only be done by:
 - a. A pharmacy;
 - b. Hospitals;
 - c. Community health centers;
 - d. Clinics; and
 - e. Doctors.
- (2) Pharmacies can only deliver the Narcotics to:
 - a. Hospitals;
 - b. Community health centers;
 - c. Other pharmacies;
 - d. Clinics;
 - e. Doctors; and
 - f. Patients.
- (3) Hospitals, pharmacies, community health centers, and clinics can only deliver the Narcotics to patients based on a doctor's prescription.
- (4) Delivery of Narcotics by doctors only be implemented for:
 - a. Running a medical practice by providing the Narcotics by injection;
 - b. Help the patients in emergencies by providing the Narcotics by injection, or
 - c. Perform tasks in a remote area that no pharmacies.
- (5) Narcotics in the form of injections in a certain amount delivered by the doctor referred to in paragraph (4) can only be obtained at a pharmacy.

From the description above, and related to the results of research conducted in several regencies and cities in South Sulawesi Province, it is found that the facts of narcotics crime within five years can be seen in the following table:

Table 1. Narcotics Crime Cases in South Sulawesi on 2015 to 2019

No	Year	Frequency	Percentage
1	2015	472	15.00%
2	2016	731	23.23%

3	2017	767	24.37%
4	2018	484	15.38%
5	2019	693	22.02%
Total		3.147	100.00%

Source: The data is processed from the documentation of the South Sulawesi Police Special Criminal Investigation Directorate, 2020

The data above shows that the narcotics crime in South Sulawesi Province within five years was 3,147 cases. The details are the number of cases in 2015 as much as 472 or 15.00%, in 2016 as many as 731 or 23.23%, in 2017 as many as 767 or 24.37%, in 2018 as many as 484 or 15.38%, in 2019 as much as 693 or 22.02%. It was found that the frequency and percentage of narcotics crime incidents from year to year fluctuated over five years and did not have a significant difference.

Based on these empirical facts, the research problem will be described based on analyzing the data found during the study.

A. The Essence of the Legality Principle in the Process of Proving the Narcotics Crime

The principle of legality in proving a narcotics crime is an important or essential thing because narcotics crime is classified as an extraordinary crime. Therefore, narcotics crime becomes a priority scale in handling cases and eradicating their circulation. As for law enforcement, it provides sanctions to perpetrators and provides legal protection for victims of narcotics abuse (Sudanto, 2017:158).

The phenomenon that appears in law enforcement related to the process of proving a criminal act of narcotics is the type of narcotics evidence itself and its classification as regulated in Law No. 35 of 2009.

The types and substances classified as part of Narcotics have been regulated based on the Regulation of the Minister of Health of the Republic of Indonesia Number 22 of 2020 on the Change in Narcotics Categorization. However, the classification is placed in the regulatory attachment.

From the description above and related to the research results, the respondents' understanding of the essence of the legality principle in the process of proving the narcotics crime can be seen in the following table:

Table 2. An Understanding of the Essence of the Legality Principle is based on the Laws and Regulations

No	Indicator	Frequency	Percentage
1	Understand	100	100.00%
2	Less Understand	0	00.00%
3	Do Not Understand	0	00.00%
Total		100	100.00%

Source: Data Processed from Questionnaires, 2020

The data above shows that all respondents understand the essence of the legality principle in proving the narcotics crime based on laws and regulations.

In theory, according to Soerjono Soekanto (2004:8), the aspect of knowledge is one of the elements of law enforcement that affects the functioning of the law. Hence, the respondent's knowledge shows a relevant significance. However, this aspect cannot be generalized because other factors must cooperate, such as legal factors, law enforcement factors, facilities and infrastructure factors, and community legal culture factors.

In connection with the description above, to find out the consistency of the respondent's knowledge of the essence of the legality principle, the following are the results of the research related to the respondent's understanding of the substance of the legality principle in the process of proving the narcotics crime can be seen in the following table:

Table 3. An Understanding of the Substance of the Legality Principle is based on the Laws and Regulations

No	Indicator	Frequency	Percentage
1	Understand	80	80.00%
2	Less Understand	11	11.00%
3	Do Not Understand	9	9.00%
Total		100	100.00%

Source: Data Processed from Questionnaires, 2020

The data above shows that most respondents understand the substance of the legality principle in proving the narcotics crime based on laws and regulations. The details are 80 or 80.00% of respondents

answered understand, there were 11 or 11.00% of respondents answered less understand, and there were 9 or 9.00% of respondents who answered do not understand.

Thus, the respondent's understanding of the substance of the legality principle is based on the laws and regulations is not yet uniform. It can be seen that there are 20 or 20.00% of respondents who less or do not understand. This condition can affect the process of investigation and examination in narcotics crime cases.

In connection with the description above, there is a contradiction in the respondent's understanding of the legality principle in proving the narcotics crime. Furthermore, to find out the consistency of the respondent's knowledge of the legality principle, the following are the results of the research related to the respondent's understanding of the rules of narcotics crime based on Law No. 1 of 1960, can be seen in the following table:

Table 4. An Understanding of the Rules of Narcotics Crime based on Law No. 1 of 1960

No	Indicator	Frequency	Percentage
1	Regulated	96	96.00%
2	Less Regulated	1	1.00%
3	Unregulated	3	3.00%
Total		100	100.00%

Source: Data Processed from Questionnaires, 2020

The data above shows that most respondents understand the rules of narcotics crime based on Law No. 1 of 1960. The details are 96 or 96.00% of respondents answered regulated, there were 1 or 1.00% of respondents answered less regulated, and there were 3 or 3.00% of respondents who answered unregulated.

Thus, the respondent's understanding of narcotics crime rules based on Law No. 1 of 1960 is not yet uniform. It can be seen that there are 4 or 4.00% of respondents who answered less or unregulated. This condition can affect the process of investigation and examination in narcotics crime cases. No matter how small the percentage, it should not happen because knowledge is one of the law enforcers' elements must fully understand this to become a guide in the implementation of its law enforcement function (Wangol, 2016:40).

Researchers have conducted research to determine whether the legality principle should be used as a principle in investigating and examining narcotics crime. This is important because it relates to the human rights of a person who is faced with a criminal act or is suspected of committing a narcotics crime. Therefore, the law enforcement factor must always refer to the legality principle.

In connection with the description above, the following are the research results related to the respondent's view of the necessity of the legality principle in the process of investigation and examination in narcotics crime cases, which can be seen in the following table:

Table 5. The Necessity of the Legality Principle in the Process of Investigation and Examination in Narcotics Crime Cases

No	Indicator	Frequency	Percentage
1	Necessary	61	61.00%
2	Less Necessary	20	20.00%
3	Not Necessary	19	19.00%
Total		100	100.00%

Source: Data Processed from Questionnaires, 2020

The data above shows that not all respondents view the legality principle's necessity in the process of investigation and examination in narcotics crime cases. The details are 61 or 61.00% of respondents answered necessary, there were 20 or 20.00% of respondents answered less necessary, and there were 19 or 19.00% of respondents who answered not necessary.

Thus, 39 or 39.00% of respondents are less or not necessary of the legality principle in the process of investigation and examination in narcotics crime cases. This condition can also be considered that Indonesia's law enforcement system is still far from being a constitutional state.

In theory, for a country that adheres to the rechtsstaat, the rule of law, and nomocracy, it must develop the rule of law's principles and uphold legality principles. This requirement is implemented, that in all government affairs, it must be based on the rules contained in laws and regulations (Kadaryanto, 2012:2). The principle of legality should also be a guideline for law enforcers, especially investigators, to be used as a principle in investigating and examining narcotics crime (Yuherawan, 2012:221).

There is no justification for the organizer to override or ignore the legality principle because this is a necessity emphasized in Article 1 section (1) of Law No. 1 of 1960. This means that overriding or ignoring the legality principle in investigating and examining narcotics crime is a violation of the law. At least, it can be said as a form of legal harassment.

In connection with the description above, here are the results of research related to the implementation of the legality principle for investigators in carrying out the investigation and examination of narcotics crime, which can be seen in the following table:

Table 6. The Implementation of the Legality Principle in the Process of Investigation and Examination in Narcotics Crime Cases

No	Indicator	Frequency	Percentage
1	Implemented	49	49.00%
2	Less Implemented	29	29.00%
3	Not Implemented	22	22.00%
Total		100	100.00%

Source: Data Processed from Questionnaires, 2020

The data above shows that only some respondents implement the legality principle in investigating and examining narcotics crime cases. The details are 49 or 61.00% of respondents answered implemented, there were 29 or 29.00% of respondents answered less implemented, and 22 or 22.00% of respondents answered not implemented. Thus, it can be said that the legality principle has not been implemented in the process of investigation and examination of a narcotics crime.

Based on the research results, it can be said that the essence of legality principles in the process of proving narcotics crime has not been found factually. Although most respondents understand the legality principle, this has not been implemented optimally or efficiently. So it does not rule out the possibility of irregularities in determining the status of a suspect as a narcotics criminal.

B. The Principle of Legality as a Consideration in the Process of Proving the Narcotics Crime

The principle of legality is a general principle in criminal law adhered to in a constitutional state, so it must always be used as the main factor in the process of proving narcotics crime. This is important because it involves human rights and legal protection of citizens, considering that Indonesia adheres to the rule of law (Asrun, 2016:139).

Following the principle of legality, there is an expression that “it is better to release a thousand guilty people than to punish one person who is not responsible”. This expression is viral among legal experts and legal thinkers who see the importance of determining a suspect’s status for someone who is proven guilty based on laws and regulations.

In connection with the description above, the following are the results of research related to the reasons why respondents implementing the legality principle as a consideration in the proving process for narcotics crime, which can be seen in the following table:

Table 7. Reasons for Implementing the Legality Principle as a Consideration in the Proving Process for Narcotics Crime

No	Indicator	Frequency	Percentage
1	Ensuring the presence or absence of a criminal act	41	41.00%
2	Determine the presence or absence of an error	32	32.00%
3	Confirm whether there is a further investigation process or not	27	27.00%
Total		100	100.00%

Source: Data Processed from Questionnaires, 2020

The data above shows that there are several reasons why respondents implementing the legality principle as a consideration in the proving process for narcotics crime, namely 41 or 41.00% of respondents, answered that to ensure the presence or absence of a criminal act. There were 32 or 32.00% of respondents answered that to determine the presence or absence of an error. There were 27 or 27.00% of respondents answered that to confirm whether there is a further investigation process or not.

Based on these results, it can be said that the respondents’ answers have a significant relationship with each other. This means that even though the respondent’s answer fluctuates, it has the same objective that the suspect must be processed according to sufficient evidence.

Evidence in narcotics crime cases has experienced developments by following the development of cyber technology, so that the proof is not only based on Article 184 of Law of the Republic of Indonesia Number 8 of 1981 on the Code of Criminal Procedure (hereinafter referred to as Law No. 8 of 1981), regulates that:

- (1) Valid evidence is:

- a. witness statements;
 - b. expert statement;
 - c. letter;
 - d. indication;
 - e. statement of the defendant.
- (2) Things that are generally known do not need to be proven.

But also based on Article 44 of Law of the Republic of Indonesia Number 19 of 2016 on Amendment to Law Number 11 of 2008 on Electronic Information and Transactions (hereinafter referred to as Law No. 19 of 2016), regulates that means of proof on the investigation, prosecution, and examination at court under the provisions of this Law shall be as follows:

- a. means of proof as referred to in the provisions of Laws; and
- b. other means of proof in the form of Electronic Information and/or Electronic Documents as referred to in Article 1 point 1 and point 4 as well as Article 5 section (1), section (2), and section (3).

It is in line with Law No. 19 of 2016 and based on the principle of *lex specialis derogat legi generali*, which is between Law No. 8 of 1981 as a General Law and Law No. 35 of 2009 as a Special Law. Based on Article 86 section (1) of Law No. 35 of 2009, regulates that “Investigators can obtain evidence other than as referred in the Law on Criminal Procedure”.

In connection with the description above, the following are the results of research related to the respondent’s understanding of the indicators that are taken into consideration in the process of proving narcotics crime, which can be seen in the following table:

Table 8. Indicators Consideration in the Proving Process for Narcotics Crime

No	Indicator	Frequency	Percentage
1	Laws and Regulations	40	40.00%
2	Preliminary Evidence	51	51.00%
3	Valid Evidence	9	9.00%
Total		100	100.00%

Source: Data Processed from Questionnaires, 2020

The data above shows that based on the respondent’s understanding, several indicators are taken into consideration to prove narcotics crime. The details are 40 or 40.00% of respondents answered laws and regulations, there were 51 or 51.00% of respondents answered preliminary evidence, and 9 or 9.00% of respondents answered valid evidence.

Although the three indicators can be accounted for, the primary indicator is the legislation according to the legality principle. This means that in theory, the legality principle emphasizes laws and regulations, which are the primary consideration in proving narcotics crime.

Digging further regarding the relationship between the three indicators, the following are the results of research related to the application of the three indicators that are taken into consideration in the process of proving narcotics crime, which can be seen in the following table:

Table 9. Application of Indicators Consideration in the Proving Process for Narcotics Crime

No	Indicator	Frequency	Percentage
1	Simultaneously	51	51.00%
2	One of Them	41	41.00%
3	Do not Know	8	8.00%
Total		100	100.00%

Source: Data Processed from Questionnaires, 2020

The data above shows that the application of the three indicators that are taken into consideration in the process of proving narcotics crime, where there are 51 or 51.00% of respondents answered applying simultaneously, there were 41 or 41.00% of respondents answered applying one of them, and 8 or 8.00% of respondents answered do not know.

Suppose this data is connected with the previous table for answers to the indicators of laws and regulations and applied simultaneously to three indicators as a consideration in proving narcotics crime. In that case, it can be interpreted that the respondent understands the substance of the legality principle.

From the description of the research results above, it can be interpreted that not all respondents understand well the essence of the legality principle, including the substance. All respondents should understand it, as based on Article 1 section (1) of Law No. 1 of 1960, regulates that “no act shall be punished unless by virtue of a prior statutory penal provision”.

Based on the overall research results, it can be concluded that law enforcers have other considerations in proving narcotics crime. This is very clear from the data obtained and presented via the frequency distribution table.

IV. CONCLUSIONS AND SUGGESTIONS

Based on the description of the results and discussion, it can be concluded that the essence of the legality principle in the process of proving narcotics crime has not yet become a barometer and or benchmark used by law enforcers in the proving process of a narcotics crime. This happens because, factually or empirically, it has not become the basis for determining whether the suspect made a mistake or not, based on Law No. 35 of 2009 and other laws and regulations. Based on these conclusions, it is hoped that officials in handling narcotics crimes can further improve their understanding of criminal law so that they thoroughly know and understand the essence and substance of the principle of legality in a constitutional state.

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