



Analysis Of The Disparity Of Narcotics Criminal Verdicts On Judex Juris And Judex Facti Verdicts

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ABSTRACT

The study aims to determine the judge's consideration in imposing a crime on each judgment and the causes of disparities in the decisions of Judex Facti and Judex Juris judges. laws and regulations related to legal journals. The data collection technique is a literature study, and the author analyzes the collected data. The Judex Facti judge's consideration is based on fulfilling elements intentionally or without the right to unlawfully offer for sale, sell, buy, receive, intercede in buying and selling, exchanging, or delivering Class I Narcotics, and fulfilling elements of malicious trial or conspiracy to commit Narcotics and Narcotics Precursor crimes. The Judex Juris judge's decision is based on the fulfillment of the charge more subsidair, namely every narcotics abuser and for themselves. The study aims to increase insight and knowledge in criminal law related to drug crime cases to prevent and solve them.

INTRODUCTION

In a country, laws are necessary to regulate and protect its citizens. Generally, law is a collection of rules or regulations within society, which are enforced through coercion with sanctions imposed if not followed (Sudikno Mertokusumo, 2007). The purpose of the law is to create an orderly society, establish order, and balance (Sudikno Mertokusumo, 2007). For example, criminal law regulates societal life or the maintenance of public order, aiming to protect all legal interests against immoral acts with punishments or sanctions in the form of criminal penalties.

Criminal law can be divided into two categories: General Criminal Law and Special Criminal Law. General Criminal Law contains rules that regulate common violations as stipulated in the Criminal Code, whereas Special Criminal Law includes criminal law rules that deviate from general criminal law, both in terms of procedural and substantive law (Hartanto, et al., 2020). For instance, drug offenses. In practice, drug offense cases that go to court may or may not result in a rehabilitation sentence for the drug user. Judges have significant power and freedom in making decisions.

A judge's ruling that results in a failure of justice and benefit can create a disparity in similar cases, leading to different decisions. However, the public is still unfamiliar with the term disparity. Disparity means the inequality of law among identical crimes (same offense) under comparable circumstances (Hamidah Abdurrachman, et al., 2020). According to Andrew Ashworth, sentencing disparity is inseparable from the judge's discretion in imposing sanctions in a criminal case (Frenky Manurung, et al., 2021). Sentencing disparity becomes an issue in the judge's decision regarding the supremacy of law because there are conflicting viewpoints between the defendant and the public, who may feel that the decision is unjust due to unequal punishment for the same offense, as stipulated in the same article and supported by the same evidence (Defry Dwi Irmawaan and Anis Mashdurohatun, 2018).

An example is the narcotics case decision Number 207/Pid.Sus/2020/PNTrg, where the defendant ES was sentenced by the judge under Article 114 Paragraph 1 in conjunction with Article 132 Paragraph 1 of Law Number 35 of 2009 on Narcotics to six years imprisonment and a fine of one billion rupiahs, with evidence weighing 3.63 grams gross or 1.03 grams net of methamphetamine. In the appeal decision Number 265/PID/2020/PT.SMR, the judge upheld the initial decision. However, in the cassation decision number 2115 K/Pid.Sus/2021, the Supreme Court judge sentenced ES to 1 year and 6 months imprisonment with the same evidence, under Article 127 Paragraph 1 Letter a of Law Number 35 of 2009 on Narcotics. The disparity occurred due to the inconsistency in the application of the law by the judges, leading to perceived injustice by the public.

In Law Number 35 of 2009 on Narcotics, narcotics offenses are categorized into users and dealers. Article 103 regulates the rehabilitation of offenders, while Article 129 provides for imprisonment and fines for narcotics offenses. Additionally, Supreme Court Circular Number 4 of 2010 on the Placement of Drug Abusers, Victims of Drug Abuse, and Drug Addicts into

Medical and Social Rehabilitation Institutions essentially instructs judges to rehabilitate drug users and addicts according to the Circular.

METHODOLOGY

In this research, a normative juridical approach is employed through literature studies, including documents managed by others that are available in the form of scientific books and other sources, as well as legislation. The primary data used includes the Criminal Procedure Code, Law Number 35 of 2009 on Narcotics, Law Number 48 of 2009 on Judicial Authority, Supreme Court Circular Number 4 of 2010 on the Placement of Drug Abusers, Victims of Drug Abuse, and Drug Addicts into Medical and Social Rehabilitation Institutions, and Supreme Court Circular Number 1 of 2017 on the Implementation of Formulations from the 2017 Supreme Court Plenary Chamber Meeting as Guidelines for the Implementation of Court Duties. The secondary data used includes court decisions Number 207/Pid.Sus/2020/PNTrg, Number 265/PID/2020/PT.SMR, Number 2115 K/Pid.Sus/2021, expert opinions, books, and journals relevant to the research writing.

RESEARCH RESULT AND DISUSSIONS

Considerations of the Judge in Issuing Criminal Sentences in the Narcotics Crime Case Decisions 207/Pid.Sus/2020/PNTrg, 265/PID/2020/PT.SMR, and 2115 K/Pid.Sus/2021

In the decision number 207/Pid.Sus/2020/PNTrg, the defendant ES was charged by the Public Prosecutor (JPU) using several charges, including:

Table 1. Article of Charges by the Public Prosecutor

No	Tuntutan	Pasal
1.	Primary, Article 114 Paragraph 1 in conjunction with Article 132 Paragraph 1 of Law Number 35 of 2009 on Narcotics	<p>Article 114 Paragraph 1 reads: Any person who without rights or against the law offers to sell, sells, buys, receives, acts as an intermediary in the sale and purchase, exchanges, or hands over narcotics of Category I, shall be punished with life imprisonment or imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years, and a maximum fine of Rp. 10,000,000,000.00 (ten billion rupiahs).</p> <p>Article 132 Paragraph 1 reads: Attempt or conspiracy to commit Narcotics and Narcotics Precursor offenses."</p>

2.	Subsidiary, Article 112 Paragraph 1 in conjunction with Article 132 Paragraph 1 of Law Number 35 of 2009 on Narcotics	<p>Article 112 Paragraph 1 reads: Any person who without rights or against the law possesses, keeps, controls, or provides Category I Narcotics not from plants, shall be punished with imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years, and a minimum fine of Rp. 800,000,000.00 (eight hundred million rupiahs) and a maximum fine of Rp. 8,000,000,000.00 (eight billion rupiahs).</p> <p>Article 132 Paragraph 1 reads: Attempt or conspiracy to commit Narcotics and Narcotics Precursor offenses.</p>
3.	More Subsidiary, Article 127 Paragraph 1 Letter a of Law Number 35 of 2009 on Narcotics	<p>Article 127 Paragraph 1 Letter a reads: Any user of Category I Narcotics for personal use shall be punished with imprisonment for a maximum of 4 (four) years.</p>

Considerations of the Judge in Decision 207/Pid.Sus/2020/PNTrg

In the first-instance court decision numbered 207/Pid.Sus/2020/PNTrg, the judge sentenced the defendant ES to 6 years in prison and a fine of 1 billion rupiahs, with a substitute of 3 months imprisonment if the fine is not paid. Several considerations by the judge in issuing this sentence are as follows:

- Considering that, based on the testimonies of witnesses, the defendant acknowledged and did not object.
- Considering that, during the trial, the defendant did not present any mitigating witnesses or favorable witnesses or Ade Charge witnesses.
- Considering the defendant's confession, which essentially stated that the defendant went to witness HA's house at night to collect his salary, and then HA instructed the defendant to transfer payment for methamphetamine. After agreeing, the defendant received money from HA amounting to 3 million 50 thousand rupiahs to be transferred to a Bank BNI account under the name F, totaling 50 thousand rupiahs, and to a Bank Mandiri account under the name HW, totaling 2 million 500 thousand rupiahs for the payment of methamphetamine and 50 thousand rupiahs. On Wednesday, March 25, 2020, around 15:30, the defendant returned to HA's house to deliver two proof of transfer payments for methamphetamine. The defendant was then invited by HA to smoke methamphetamine, and during this time, the defendant smoked methamphetamine prepared by HA in a glass pipe. HA also alternately consumed methamphetamine with the defendant until the defendant smoked methamphetamine twice. Later, LT arrived at HA's house and entered HA's room to consume methamphetamine. After the defendant finished consuming

methamphetamine, the defendant left the room for the living room, but suddenly the police arrived and entered HA's house, immediately apprehending the defendant, and subsequently apprehending HA and LT. During the search and questioning regarding the ownership of the methamphetamine, HA admitted that the 10 packets of methamphetamine belonged to HA. Thereafter, the defendant, along with HA and LT and the evidence, were taken to Polsek Tenggara Seberang for legal proceedings.

- Considering that the charge is in the form of subsidiarity, therefore the judge will initially consider the primary charge. If the primary charge is proven, there is no need to further consider the subsidiary charge. However, if the primary charge is not proven, the judge will consider the subsidiary charge.

- Considering that the judge will evaluate the primary charge based on several elements, including:

1. Element "Every Person": Considering that the Public Prosecutor has presented Defendant ES as a legal subject in the form of a *Naturelijk Persoon* or individual, and his identity corresponds to the information in the case examination report and the indictment letter.

2. Element "Without right or against the law offering for sale, selling, buying, receiving, acting as an intermediary in the sale and purchase, exchanging, or handing over Category I Narcotics": According to the judge, the element "without right" is part of the "against the law" element, which constitutes objective unlawful behavior or objective *onrechtselement* that has a broader scope compared to the "without right" element, which is subjective unlawful behavior or subjective *onrechtselement*. However, in this case, the judge provides a different interpretation and relates it to the provisions of the Republic of Indonesia Law Number 35 Year 2009 concerning Narcotics, where "without right" is interpreted as behavior without authorization or permission from the Minister of Health. Considering that the element "against the law or without right" must be linked to actions that are alternative, namely "offering for sale, selling, buying, receiving, acting as an intermediary in the sale and purchase, exchanging, or handing over Category I narcotics."

3. Attempt or conspiracy to commit Narcotics and Narcotics Precursor offenses: Considering that based on the existing legal facts, related to the provisions in Article 7, Article 36, Article 38, and Article 41 of Law Number 35 Year 2009 concerning Narcotics, therefore the judge concludes that the defendant has been proven to intentionally and without right transact Category I Narcotics. Also, based on the elements in Article 114 Paragraph 1 in conjunction with Article 132 Paragraph 1 of Law Number 35 Year 2009 concerning Narcotics, the judge concludes that the defendant has been proven beyond a reasonable doubt to have committed the offense of "Conspiring unlawfully and without right to sell Category I non-plant narcotics."

In the considerations mentioned above by the judge, it is important to note that the evidence of methamphetamine present does not belong to defendant ES, as acknowledged by witnesses in court. Defendant ES only went to witness HA's house to collect his salary, where he was promised methamphetamine if he helped transfer money. After transferring the

mentioned money, defendant ES was invited by witness HA to consume methamphetamine together in the room. Looking at the existing legal facts, the imposition of punishment based on Article 114 Paragraph 1 in conjunction with Article 132 Paragraph 1 of Law Number 35 Year 2009 concerning Narcotics seems inappropriate. The judge, in imposing this criminal sentence, did not sufficiently consider legal considerations, leading to a lack of justice for the defendant.

Judge's Considerations in Decision Number 265/PID/2020/PT.SMR

The content of the appellate decision number 265/PID/2020/PT.SMR, Judge Judex facti upheld the decision number 207/Pid.Sus/2020/PNTrg based on several considerations, including:

- Considering that in his appeal, the Defendant's Legal Counsel has submitted an appeal memorandum which essentially states as follows:

1. Based on the verdict of the panel of judges at the Tenggara District Court sentencing Defendant ES to 6 years in prison and a fine of 1 billion rupiahs, the Legal Counsel for Defendant ES argues that this is disproportionate compared to the verdicts for Defendants HA, sentenced to 6 years and 6 months in prison plus a 1 billion rupiah fine, and LT, sentenced to 6 years and 3 months in prison plus a 1 billion rupiah fine. This is despite the fact that based on trial facts and witnesses, the possession of 10 packets of shabu was attributed to Defendant HA, not Defendant ES. However, Defendant HA admitted to the possession of these 10 packets, with Defendant LA also actively participating in conspiracy and the sale of shabu.

2. Defendant ES's Legal Counsel argues that the charges brought by the public prosecutor, invoking Article 114 Paragraph 1 combined with Article 132 Paragraph 1 of Law Number 35 Year 2009 concerning Narcotics, are not appropriate. This is because based on the facts presented during the trial, Defendant ES was only proven to be a drug user of Category I narcotics for personal use. Therefore, Defendant ES should have been charged and prosecuted under Article 127 Paragraph 1 of Law Number 35 Year 2009 concerning Narcotics.

3. Since the elements of the charges under the more subsidiary Article 127 Paragraph 1 letter a of Law Number 35 Year 2009 concerning Narcotics are fulfilled, the elements of the primary charges under Article 114 Paragraph 1 combined with Article 132 Paragraph 1 of the Narcotics Law are not fulfilled. Therefore, since the primary charges are not fulfilled, Defendant ES should be acquitted of the primary charges.

Considering that in response to the appeal memorandum from the defendant's legal counsel, the public prosecutor has submitted a counter-appeal memorandum essentially as follows:

1. Based on the testimony of witnesses EY and AW (members of the Tenggara Seberang Sector Police), in essence, during the trial and under oath, they stated the following:

That after apprehending HA, LT, and defendant ES with 10 packets of shabu as evidence, they interrogated HA, LT, and defendant ES. HA instructed defendant ES to transfer money to purchase the shabu and gave 3 million to

defendant ES to transfer to Bank BNI account under the name F, number 0851xxxxx, and to Bank Mandiri account number 148xxxxx. After the money was transferred, defendant ES informed HA that the transfer was completed. Subsequently, HA was contacted by a Samarinda resident, a regular customer, to buy shabu and requested another transfer of 1 million. HA agreed, and shortly afterward, HA gave 1 million to LT to transfer to Bank BNI account under the name F, number 0851xxxxx. After LT informed HA that the 1 million had been transferred to the Bank BNI account 0851xxxxx under the name F to purchase shabu, HA received the ordered shabu in Samarinda, under the signboards behind the Samarinda Islamic Hospital. HA then took the 5-gram shabu home and divided it into 25 packets, selling them for a total of 1.5 million. HA instructed LT to transfer the proceeds of 1.5 million to Bank BNI account under the name F, but before the transfer could be made, HA, LT, and defendant ES were arrested by the police. HA, LT, and defendant ES were targeted because they were involved in a drug trafficking syndicate in the Tenggara Seberang area.

2. Witness HA, in essence, stated the following:

That LT and defendant ES assisted in distributing HA's shabu by acting as intermediaries to sell shabu. If someone needed shabu, LT and defendant ES would inform them that HA was selling shabu. LT and defendant ES also helped HA by transferring money to pay for the shabu to Bank BNI account under the name F and Bank Mandiri account under the name HW.

That HA had previously paid or rewarded defendant ES and LT for assisting in distributing HA's shabu and transferring payment for the shabu. HA paid or rewarded them between 50,000 to 100,000 as money for oil purchases, and after instructing them to transfer, HA paid them to smoke shabu.

3. That in the first-instance court, the panel of judges correctly considered and stated that Defendant ES had been convincingly and legally proven guilty of committing the criminal act "conspiring unlawfully and unlawfully selling Class I narcotics, not plants."

Judge *Judex Facti* opines that the considerations of the Tenggara District Court in its verdict, where defendant ES has been legally and convincingly proven guilty of the primary charge of "conspiring unlawfully and unlawfully selling Class I narcotics, not plants," are correct and accurate. This is because the defendant, together with Witness LT, was involved from the outset in the purchasing process, money transfers, and also facilitated customers intending to buy shabu to Witness HA. Additionally, the defendant, together with Witnesses HA and LT, used some of the shabu besides selling it to others. Therefore, the defendant's actions in this case do not stand alone and are inseparable from a series of actions committed by Witnesses HA and LT, forming a continuum. Hence, the defense counsel's argument in their appeal memorandum that defendant ES should have been charged under Article 127 Paragraph 1 Letter a of Law Number 35 of 2009 regarding Narcotics instead of

Article 114 Paragraph 1 Jo Article 132 Paragraph 1 of Law Number 35 of 2009 regarding Narcotics is not applicable to the defendant's involvement in this case and should be dismissed. Meanwhile, the public prosecutor's argument in their counter-appeal memorandum has aligned with the aforementioned considerations, hence acceptable. Based on these considerations, the first-instance judge's assessment of the defendant's guilt in this case is correct and will be continued and considered by the High Court in deciding the case on appeal.

From the considerations above, in the writer's view, the sentencing by Judge *Judex Facti* is not appropriate and is inaccurate because defendant ES was enticed by an agreement that if he helped Witness HA transfer money to an unknown person, defendant ES could use shabu with Witness HA for free. This, of course, was the initial cause of defendant ES's curiosity to use shabu and led defendant ES to become a user of shabu. Based on the facts that defendant ES was caught consuming shabu with Witnesses HA and LT in Witness HA's room with 10 packets of shabu, which clearly belonged to Witness HA, the judge needs to consider Supreme Court Circular Number 4 of 2010 regarding the Placement of Narcotics Abusers, Victims of Abuse, and Addicts into Medical and Social Rehabilitation Institutions when delivering the verdict.

Consideration of Cassation Judge Number 2115 K/Pid.Sus/2021

In the cassation decision number 2115 K/Pid.Sus/2021, Judge *Judex Juris* imposed a sentence using a different article from the article used by the judges at the District Court, High Court, and Supreme Court in issuing their verdicts based on the more subsidiary charge article, namely Article 127 Paragraph 1 of Law Number 35 of 2009 concerning Narcotics. And considering more the Circular of the Supreme Court Number 4 of 2010 concerning the Placement of Abusers, Victims of Abuse and Drug Addicts into Medical Rehabilitation and Social Rehabilitation Institutions which states that when someone is caught red-handed carrying evidence of narcotics exceeding the table, they can be said to be a dealer. The table of types and quantities of narcotics according to the Circular of the Supreme Court Number 04 of 2010 concerning the Placement of Abusers, Victims of Abuse and Drug Addicts into Medical Rehabilitation and Social Rehabilitation Institutions includes:

Table 2. Limits on the type and weight of narcotics abused by oneself

No	Nama	Berat
1	Category Methamphetamine (Shabu)	1 gram
2	Category MDMA (Ecstasy)	2.4 grams = 8 grains
3	Category Heroin	1.8 grams
4	Category Cocaine	1.8 grams
5	Category Marijuana	5 grams
6	Cocca Leaf	5 grams
7	Mescaline	5 grams
8	Category Psilocybin	3 grams

9	Category LSD (d-lysergic acid diethylamide)	2 grams
10	Category PCP (Phencyclidine)	3 grams
11	Category Fentanyl	1 gram
12	Category Methadone	0.5 grams
13	Category Morphine	1.8 grams
14	Category Pethidine	0.96 grams
15	Codeine Group	72 grams
16	Buphrenorphine Group	32 milligrams

Source: Circular Letter of the Supreme Court Number 4 of 2010 Concerning the Placement of Abusers, Victims of Abuse and Drug Addicts in Medical Rehabilitation and Social Rehabilitation Institutions

The Supreme Court Judge in sentencing the defendant ES based on the Circular Letter of the Supreme Court Number 1 of 2017 Concerning the Implementation of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber in 2017 as a Guideline for the Implementation of Duties for the Court, in the Formulation of the Criminal Chamber Law Number 2 Letter b which explains "In the event that the defendant is not caught red-handed using narcotics and the defendants are found to have evidence of narcotics in relatively small quantities/weights, Circular Letter of the Supreme Court Number 4 of 2010 Concerning the Placement of Abusers, Victims of Abuse and Drug Addicts in Medical Rehabilitation and Social Rehabilitation Institutions and the results of the defendant's urine test are positive for Methamphetamine but the public prosecutor does not charge Article 127 Paragraph 1 of Law Number 35 of 2010 concerning the Placement of Abusers, Victims of Abuse and Drug Addicts in Medical Rehabilitation and Social Rehabilitation Institutions 2009 on Narcotics, then the defendant's actions can be categorized as abuse of class I narcotics for oneself". From the public prosecutor's indictment, defendant ES was also charged with a subsidiary charge of Article 127 Paragraph 1 of Law No. 35 of 2009 on Narcotics. Of course, this is a very appropriate basis for sentencing ES based on the subsidiary charge.

Causes of disparity in Number 207/Pid.Sus/2020/PNTrg, Number 265/PID/2020/PT.SMR, and Number 2115 K/Pid.Sus/2021

The existence of disparities certainly causes injustice in the judge's rulings for the defendant. Although disparities are highly unlikely to be eliminated, at the very least, they should be based on clear and detailed reasons to minimize them. Therefore, it is hoped that the rulings create a sense of fairness for both perpetrators and victims, especially in cases of drug offenses.

In this case, the duration of imprisonment and the use of articles to impose penalties show disparities in the rulings of *Judex Facti* and *Judex Juris*. In *Judex Facti*'s ruling, the judge imposed a sentence under the primary charge of Article 114 Paragraph 1 together with Article 132 Paragraph 1 of Law Number 35 Year 2009 concerning Narcotics, whereas in *Judex Juris*' ruling, the judge gave a sentence under the more subsidiary charge of Article 127 Paragraph 1 Letter a of Law Number 35 Year 2009 concerning Narcotics, with differing durations of imprisonment: *Judex Facti* imposed a prison sentence of 6 years and a fine of 1 billion IDR, which, if unpaid, would be substituted with an additional 3 months of imprisonment; whereas *Judex Juris* imposed a sentence of 1 year and 6 months.

In terms of justice, both rulings, particularly *Judex Facti*'s, do not seem to be based on fairness for the defendant ES. Considering the amount of narcotics, ES only used shabu weighing less than 1 gram, took only 2 hits, and the shabu found was not in his possession. The article used in the judgment was unfair, as ES, who was proven to have used shabu, should have been determined not to exceed the maximum limit set in Supreme Court Circular Number 4 Year 2010 Regarding the Placement of Abusers, Victims of Abuse, and Drug Addicts into Medical and Social Rehabilitation Institutions. This Supreme Court Circular explains that penalties for drug abusers can be imposed if the defendant is caught red-handed by the police and BNN investigators with evidence of one day's use of shabu weighing 1 gram, supported by a positive laboratory test for drug use as requested by the investigator and requiring a government-appointed psychiatric/psychiatrist's statement, and there is no evidence that those involved were not involved in drug trafficking.

According to the author, disparities in these three rulings occur due to several factors. Firstly, the existence of judicial freedom and independence, Judicial Discretionary in determining the articles used in sentencing. Disparities also arise from the lack of guidelines in imposing penalties, as Article 114 Paragraph 1 of Law Number 35 Year 2009 concerning Narcotics stipulates the minimum and maximum penalties that can be imposed, allowing judges the discretion to decide between minimum and maximum penalties to be imposed.

CONCLUSIONS AND RECOMMENDATIONS

Based on the research and analysis that has been carried out, the following conclusions can be drawn:

1. The judge's consideration in imposing a sentence in the *Judex Facti* decision is based on the elements contained in the primary demands of the public prosecutor and based on the defendant who helped the dealer witness in transferring money to an unknown person, and in the *Judex Juris* decision the judge imposed a sentence based on the public prosecutor's more subsidiary demands and based on the time of the defendant's arrest and use of methamphetamine which did not exceed the Circular of the Supreme Court Number 4 of 2010 Concerning the Placement of Abusers, Victims of Abuse and Drug Addicts into Medical Rehabilitation and Social Rehabilitation Institutions
2. Regarding the basis for the judge's considerations that caused the disparity in decisions caused by the judge himself, namely the independence of the judge and the existence of the judge's freedom and independence. The second factor is the absence of guidelines in sentencing, the existence of minimum and maximum sentences imposed so that this causes the judge to be free to decide on a sentence between a creating a guideline for imposing criminal penalties in the form of principles or foundations that must be considered before the judge makes a decision. Submission of public examination through an examination institution which aims to test the decision to determine the extent to which the judge's legal considerations are in accordance with legal principles and whether the trial procedure has been carried out properly and correctly, and whether the judge's decision has fulfilled justice for the defendant, victim, and society.

To minimize the disparity of decisions, several methods need to be taken, including creating a guideline for imposing criminal penalties in the form of principles or foundations that must be considered before the judge makes a decision. Submission of public examination through an examination institution which aims to test the decision to determine the extent to which the judge's legal considerations are in accordance with legal principles and whether the trial procedure has been carried out properly and correctly, and whether the judge's decision has fulfilled justice for the defendant, victim, and society.

REFERENCES

- Abdurrachman Hamidah, dkk. (2020). *Palu Hakim Versus Rasa Keadilan Sebuah Pengantar Disparitas Putusan Hakim Dalam Tindak Pidana Korupsi*. Yogyakarta: Deepublish.
- Hamzah, A. (2013). *Hukum Acara Pidana Indonesia*. Jakarta: Sinar Grafika.
- Hartanto, dkk. (2020). *Hukum Tindak Pidana Khusus*. Yogyakarta: Deepublish.
- Mertokusumo, S. (2007). *Mengenal Hukum Suatu Pengantar*. Yogyakarta: Liberty.
- Irmawan, D. D. (2018). Disparities Criminal Case Against Judge's Decision In Crime Of Narcotics Abuse Viewed From The Purpose Of Criminal Law. *Jurnal Daulat Hukum*, Vol 1 Issue 4.
- Manurung, F. dkk. (2021). Disparitas Putusan Hakim Terhadap Tindak Pidana Narkotika Di Wilayah Hukum Pengadilan Negeri Rantauprapat (Studi Kasus Putusan No. 159/PID.SUS/2019/PN.RAP Dan Putusan No. 626/PID.SUS/2020/PN.RAP). *Jurnal Ilmiah Penelitian Law_Jurnal*, Vol II No