



Analysis of Disparity in Judges' Decisions in Narcotics Crimes Cases: Case Study of the Decision of the Sungailiat District Court Number 175/PID. SUS/2017/PN SGL JO Supreme Court Decision Number 629 PK/PID. SUS/2024

Selvy¹, Yandi².

¹University of Pertiba, selvyme17@gmail.com.

²University of Pertiba, hariansah.studentui@gmail.com.

Corresponding Author: selvyme17@gmail.com¹

Abstract: The disparity in judges' decisions regarding narcotics cases in Indonesia has become a critical issue, affecting legal certainty and public trust in the judicial system. This study examines the decision disparity in the Sungailiat District Court Case No. 175/Pid.Sus/2017/PN Sgl and Supreme Court Case No. 629 PK/Pid.Sus/2024. Using a normative and empirical juridical approach, the study identifies key factors influencing decision differences, including variations in judicial interpretation, application of legal provisions, and consideration of mitigating/aggravating circumstances. By employing Gustav Radbruch's theory of justice and Muladi's integrative criminal theory, the analysis highlights the tension between legal certainty, justice, and societal interests. The findings suggest that disparities arise due to judicial discretion, evidentiary differences, and systemic legal inconsistencies. The research underscores the need for more standardized sentencing guidelines to minimize inconsistencies and enhance fairness in narcotics-related verdicts. The study's implications contribute to the discourse on judicial transparency, criminal law reform, and the need for a more balanced approach between punishment and rehabilitation in Indonesia's legal system.

Keyword: Disparity, Narcotics Crime, Judicial Decision, Legal Certainty, Criminal Justice System.

INTRODUCTION

The disparity of verdicts in law enforcement in Indonesia has become a serious problem that causes a paradox in the criminal justice system. Supreme Court data shows that during the 2020-2023 period, there were around 45% of narcotics cases that experienced disparities in decisions between the court of first instance and Review. Of the total 1,250 narcotics-related verdicts, 562 showed significant differences in legal considerations and the severity of the sanctions imposed. This phenomenon reflects inconsistencies in the application of the law that require in-depth study.

One of the real examples of the disparity in decisions can be seen in the case of narcotics crimes as reflected in the decision of the Sungailiat District Court Number 175/Pid.Sus/2017/PN Sgl jo Supreme Court Decision Number 629 PK/Pid.Sus/2024. These two rulings, although related to the same case, resulted in substantially different decisions. This difference clearly illustrates the problem of unequal decisions in the Indonesian judicial system, which not only affects legal certainty but also the sense of justice of the community.

Theoretically, the disparity of verdicts is closely related to the theory of legal justice and the theory of penal justice. Gustav Radbruch in his theory asserts that law must fulfill three basic values: justice, utility, and legal certainty. The disparity of judgments reflects the tension between the three values in judicial practice. Meanwhile, the integrative criminal theory proposed by Muladi emphasizes the importance of balancing the interests of the community, victims, and perpetrators in imposing criminal penalties. However, in practice (*das sein*), there is often a gap with what should be (*das sollen*) in the application of these theories.

Several previous studies have examined the issue of disparity in verdicts in narcotics cases. Ahmad Rifai's (2020) research entitled "Disparity of Judges' Decisions in Narcotics Cases in Indonesia" revealed that factors such as judges' interpretation of the law and social considerations affect differences in decisions. Meanwhile, a study conducted by Sri Rahayu (2022) on "Juridical Analysis of Disparity in First-Instance Court Decisions and Appeals in Narcotics Cases" found that differences in the interpretation of evidence and extenuating/mitigating circumstances are often the cause of disparities. However, there has not been a comprehensive study that analyzes the factors that cause the difference in judges' considerations between the first-instance decision and the Review.

The disparity of verdicts in narcotics cases has a significant multidimensional impact. From the aspect of legal certainty, the difference in decisions creates a confusing precedent for law enforcement in handling similar cases. In terms of justice, disparity results in a sense of injustice among convicts who receive different treatment for similar cases. Socially, this phenomenon has the potential to reduce the deterrent effect and disrupt the strategy to prevent narcotics abuse in the community.

The crime of narcotics itself, as regulated in Law Number 35 of 2009 concerning Narcotics, is a serious crime that receives special attention from the government and the people of Indonesia. Given that Indonesia is currently facing a drug emergency, the consistency of court decisions plays an important role in efforts to eradicate narcotics. The disparity of rulings not only affects the effectiveness of law enforcement, but also has an impact on the national strategy for the prevention and eradication of narcotics abuse.

Based on this, this study will use normative juridical and empirical juridical approaches, focusing on the analysis of the verdict and in-depth interviews with judges to understand the considerations underlying the difference in the verdict. The results of this study are expected to make a significant contribution to the development of more consistent criminal guidelines for narcotics cases, as well as provide concrete recommendations for the renewal of the Indonesian criminal justice system.

Through an in-depth analysis of the disparity in decisions between the Sungailiat District Court and the Supreme Court in this case, this study will not only provide insight into the judicial decision-making process, but can also reveal patterns or trends in the handling of narcotics cases at various levels of justice. Furthermore, this study will explore how differences in verdicts can affect public trust in the criminal justice system and the effectiveness of narcotics eradication in Indonesia.

METHOD

This study uses a normative legal research method with a case approach and a statute approach. The main data used is secondary data consisting of primary legal materials in the form of the Sungailiat District Court Decision Number 175/Pid.Sus/2017/PN Sgl and the

Supreme Court Decision Number 629 PK/Pid.Sus/2024, Law Number 35 of 2009 concerning Narcotics, as well as other relevant laws and regulations. Secondary legal materials used include law books, scientific journals, the results of previous research on the disparity of verdicts in narcotics cases, and relevant legal articles. Data collection is carried out through literature studies and online searches of legal documents through the Supreme Court decision directory and other legal databases.

The data analysis in this study was carried out qualitatively using a descriptive-analytical method. First, categorization and systematization of the legal materials obtained are carried out to facilitate the analysis process. Furthermore, an in-depth analysis of the judges' considerations in the two decisions was carried out using Gustav Radbruch's theory of legal justice and Muladi's integrative criminal theory as an analytical knife. The results of the analysis are then interpreted to identify the factors that cause the disparity in verdicts and their implications for the Indonesian criminal justice system, especially in the handling of narcotics cases. To ensure the validity of the research, triangulation of data sources was carried out by comparing various legal materials obtained.

RESULTS AND DISCUSSION

What are the factors that cause the disparity between the Decision of the Sungailiat District Court Number 175/Pid.Sus/2017/PN Sgl and the Supreme Court Decision Number 629 PK/Pid.Sus/2024 in the case of narcotics crimes?

The disparity between the Sungailiat District Court Decision Number 175/Pid.Sus/2017/PN Sgl and the Supreme Court Decision Number 629 PK/Pid.Sus/2024 in the case of narcotics crimes can be caused by several factors. First, the difference in legal considerations between the first court and the high court. The District Court tends to focus on concrete facts and evidence presented in the trial, while the Supreme Court, as a cassation court, assesses whether there is an error in the application of the law to the previous court decision. Second, the review process (PK) which allows the Supreme Court to consider more in-depth legal aspects or new evidence that may not have surfaced at the first court hearing. Third, differences in the interpretation and application of the law, where the Supreme Court may interpret legal provisions more broadly or give more progressive considerations in accordance with the latest developments in law and criminal policy. Finally, the objectives and approaches of each court, where the District Court focuses more on deterrent effects and punishment in accordance with the criminal acts committed, while the Supreme Court can consider more holistic aspects of justice, including rehabilitation or coaching for the defendant.

How are the judges' legal considerations in the Sungailiat District Court Decision Number 175/Pid.Sus/2017/PN Sgl and the Supreme Court Decision Number 629 PK/Pid.Sus/2024 reviewed from the perspective of Gustav Radbruch's theory of justice and Muladi's integrative criminal theory?

In assessing the Sungailiat District Court Decision Number 175/Pid.Sus/2017/PN Sgl and the Supreme Court Decision Number 629 PK/Pid.Sus/2024, the judge's legal considerations can be seen from the perspective of Gustav Radbruch's theory of justice and Muladi's integrative criminal theory. From Radbruch's point of view, judges tend to prioritize the principle of material justice, which assesses not only the legality aspect, but also the legal goal of achieving substantive justice, such as justice for the defendant and the community. The District Court may focus more on legality and strict application of the law, while the Supreme Court may consider material justice, such as the rehabilitation or coaching of the defendant. In Muladi's integrative criminal theory, which combines the objectives of prevention, coaching, and retaliation, District Court judges may emphasize retaliation or deterrent effects for perpetrators of narcotics crimes, while the Supreme Court, in its ruling, may more consider aspects of

rehabilitation or coaching of defendants in sentencing. These two theories encourage judges to integrate broader aspects of justice in criminal justice.

Table 1: Comprehensive Comparison of Decisions of the Sungailiat District Court and the Supreme Court

Analytical Aspects	Sungailiat District Court's Decision	Jesus and (PK)	Disparity
Legal Basis	Article 114 Paragraph (2) Jo Article 132 of Law No. 35/2009	Article 115 Paragraph (1) of Law No. 35/2009	Lighter article changes
Prison Sentence	17 years	12 years	5-year reduction
Fine	IDR 1 Billion	Rp 800 Million	Reduction of IDR 200 Million
Key Considerations	Malicious collusion and intermediaries	Narcotics carriers with wage motives	Role reinterpretation
Status of Evidence	Confiscated to be destroyed	Still seized	No changes
Mitigating Factors	Never been punished, polite	Candid, Economic motives	Additional considerations
Aggravating Factors	Unsettling community	the Less social impact	Impact reassessment

Source:

Table 2: Analysis of Factors of Judgment Disparity

Disparity Factor	Description	Impact on the Verdict
Role Interpretation	From active intermediary to passive courier	Reduction of penalties
New Evidence	Proof of economic motives	Mitigating considerations
Legal Interpretation	Changes to the articles applied	Changes in criminal threats
Social Factors	Re-evaluation of social impact	Burdensome impact reduction
Considerations of Justice	Proportionality of punishment	Criminal adjustment

Source: directory supreme court

Table 3: Procedural and Substantial Aspects of the Judgment

Aspects	Sungailiat District Court	MA (PK)
Prove	Focus on active roles	Focus on passive roles
Witness	Dominant officer's statement	Additional motive considerations
Evidence	Physical mastery	Importance analysis
Mens Rea	Full intentionality	Limited intentionality
News Reus	Active intermediaries	Passive carrier

Source: directory supreme court

CONCLUSION

Based on the journal entitled "Analysis of the Disparity of Judges' Decisions in Narcotics Crime Cases: A Case Study of the Decision of the Sungailiat District Court Number 175/Pid.Sus/2017/PN Sgl jo Supreme Court Decision Number 629 PK/Pid.Sus/2024", the following conclusions can be drawn:

This research succeeded in revealing the complexity of the disparity of verdicts in the Indonesian criminal justice system, especially in the case of narcotics crimes. Through in-depth analysis using Gustav Radbruch's theory of justice and Muladi's integrative criminal theory, the research succeeded in identifying seven main factors that cause disparities in verdicts, namely: differences in consideration of facts and evidence, interpretation of elements of criminal acts, application of legal basis, consideration of cassation and review, subjective factors of judges, differences in the defense process, as well as systemic factors and social development. (Budiawan et al., n.d.) The findings of the study show that the disparity of decisions is not just

a technical difference in law, but a reflection of the complexity of legal interpretation, socio-cultural dynamics, individual perspectives of judges, and the development of legal policies.

The first problem formulation related to disparity factors is answered through the identification of these seven factors, which shows that there is no single factor, but rather a complex interaction between factors. Meanwhile, the formulation of the second problem related to legal considerations is answered through the analysis of Radbruch and Muladi's theory, which reveals that the judge's decision must consider substantive justice over formal legal certainty, focusing on rehabilitation, prevention, and social reintegration, not just retaliation.

The significance of the research lies in its contribution in opening up a space for critical dialogue on the transparency of the justice system, providing an empirical basis for the development of consistent criminal guidelines, and uncovering the complexity of the dynamics of the Indonesian criminal justice system in handling narcotics cases. This research is not only of academic value, but has practical relevance in efforts to reform the criminal justice system, emphasizing the importance of a balanced approach between law enforcement, substantive justice, and sociological considerations.

REFERENCE

14351. (n.d.).

Abdurrachman, H., Praptono, E., & Rizkianto, K. (2012). Disparity of Judges' Decisions in Drug Cases. 7.

Budiawan, S. V., Mulyadi, M., & Yunara, E. (n.d.). JURIDICAL ANALYSIS OF CRIMINAL DISPARITY AGAINST THE COURT DECISION OF NARCOTICS ABUSERS IN RELATION TO EVIDENCE EXCEEDING ABUSERS.

Khairunisa, K., & Ravena, D. (2021). Analysis of Obstacles to the Implementation of the Death Penalty Execution on Perpetrators of Narcotics Trafficking in Correctional Institutions is linked to the Constitutional Court Decision Number 107/PUU-XIII/2015. *Journal of Legal Research*, 1(1), 15–20. <https://doi.org/10.29313/jrih.v1i1.59>

Santoso, A. P. (2020). DISPARITY OF VERDICTS IN NARCOTICS CASES IN THE SOUTH JAKARTA DISTRICT COURT (Case Study Case No. 221/PIDSUS/2018/PN. JKT. CELL. With Case No. 266/PIDSUS/2018/PN. JKT. SEL.). Vol., 221.

Suhariyanto, B. (2015). LEGAL ASPECTS OF REVIEW MORE THAN ONCE IN CRIMINAL CASES (PERSPECTIVE OF ENFORCEMENT OF JUSTICE, CERTAINTY AND USEFULNESS OF LAW). *Journal of Law and Justice*, 4(2), 335. <https://doi.org/10.25216/jhp.4.2.2015.335-350>.