http://dx.doi.org/10.18623/rvd.v23.5075

DYNAMICS OF NARCOTICS LAW ENFORCEMENT AND THE PRINCIPLE OF LEGALITY IN THE BLUE SAPPHIRE CASE

DINÂMICA DA APLICAÇÃO DA LEI EM MATÉRIA DE NARCÓTICOS E O PRINCÍPIO DA LEGALIDADE NO CASO BLUE SAPPHIRE

Article received on: 12/23/2025
Article accepted on: 3/25/2026

Fahri Rahmadhani*
*Faculty of Law, Universitas Sumatera Utara (USU), Medan, Sumatra Utara, Indonésia
Orcid: https://orcid.org/0009-0000-9159-1026
fahrirahmadhani@students.usu.ac.id

Alvi Syahrin*
*Faculty of Law, Universitas Sumatera Utara (USU), Medan, Sumatra Utara, Indonésia
Orcid: https://orcid.org/0009-0008-4889-6295
alviprofdr@gmail.com

Mahmud Mulyadi*
*Faculty of Law, Universitas Sumatera Utara (USU), Medan, Sumatra Utara, Indonésia
Orcid: https://orcid.org/0009-0002-4151-0747
mahmud_mulyadi@usu.ac.id

Harli Siregar*
*Faculty of Law, Universitas Sumatera Utara (USU), Medan, Sumatra Utara, Indonésia
fahrirahmadhani@students.usu.ac.id

The authors declare that there is no conflict of interest

Abstract
The principle of legality is key to maintaining legal certainty and guaranteeing the rights of citizens. This study uses a normative legal method with a legislative approach and case studies, specifically the Blue Safir case. In this study, the application of the principle of legality can be ignored by referring to expert testimony that equates the effects of Blue Safir with cathinone, a compound regulated in Minister of Health Regulation No. 13 of 2014. Therefore, responsive legal reform is needed to address the development of NPS, given the technological advances that have led to a legal vacuum. In conclusion, the principle of legality can be disregarded with far-reaching consequences, and legal reform is necessary. Therefore, a new, broad regulation on narcotics is needed, given that developments will continue to occur, in order to address this legal vacuum.

Keywords: Law Enforcement. Narcotics. Principle of Legality. Unregulated.

Resumo
O princípio da legalidade é fundamental para manter a segurança jurídica e garantir os direitos dos cidadãos. Este estudo utiliza um método jurídico normativo com uma abordagem legislativa e estudos de caso, especificamente o caso Blue Safir. Neste estudo, a aplicação do princípio da legalidade pode ser ignorada com base em depoimentos de especialistas que equiparam os efeitos do Blue Safir aos da catinona, um composto regulamentado pela Portaria no 13 de 2014 do Ministério da Saúde. Portanto, é necessária uma reforma legal responsiva para lidar com o desenvolvimento de novas substâncias psicoativas (NPS), considerando os avanços tecnológicos que levaram a um vácuo legal. Em conclusão, o princípio da legalidade pode ser desconsiderado com consequências de longo alcance, e a reforma legal é necessária. Portanto, uma nova e ampla regulamentação sobre narcóticos é necessária, visto que os desenvolvimentos continuarão a ocorrer, a fim de preencher essa lacuna legal.

Palavras-chave: *Aplicação da Lei. Narcóticos. Princípio da Legalidade. Não Regulamentado.*

1 INTRODUCTION

Narcotics are substances or drugs that can come from plants or non-plant-based products, whether synthetic or semi-synthetic. These substances can lower or alter a person's level of consciousness, numb the senses, relieve or eliminate pain, and have the potential to cause addictive dependence.[1] Narcotics are substances that are beneficial for treatment if used in accordance with standards but very dangerous if not . Recently, drug abuse has become a serious problem in Indonesia and has reached alarming levels. Victims of drug abuse have transcended social strata, age, and gender. Drug abuse has spread to all groups, from teens who will build the future to the elderly. This scenario happens almost every day in print and electronic media. Drug abuse has spread in education, as well as among executives, businessmen, and artists.

Narcotics are substances that can calm the nerves, cause unconsciousness or anesthesia, relieve pain, cause drowsiness or stimulation, induce stupor, and can be addictive. These substances or narcotics are derived from organic or non-organic, synthetic or semi-synthetic materials. In fact, these substances are very useful and medically important for the treatment of certain diseases. However, if these substances are abused or not used according to treatment guidelines, they can cause a decrease or change in consciousness, reduce pain relief, and cause dependence in users.[2]

Recently, drug abuse has emerged as a significant issue of public concern and a challenge for the Indonesian state. Even the perpetrators of drug abuse do not seem to realize the criminal consequences associated with their actions and the impact on their families and social environment.[3]

In Indonesia, drug abuse has reached alarming levels. Research in the field shows that 50% of residents of correctional institutions, also known as LAPAS, are victims of drug or narcotics abuse. Despite the expectation that law enforcement will curb drug trafficking, it appears to be on the rise.

Current global data shows that drug abuse reaches 296 million people, an increase of 12 million people compared to the previous year. This figure represents 5.8% of all people in the world aged 15 to 64. On the other hand, the results of the national survey on drug abuse prevalence in 2023 showed a prevalence of 1.73%, or the equivalent of 3.3 million people in Indonesia aged 15–64 years. This data also shows an increase.

New types of narcotics, not listed in the law, have emerged with the passage of time. The existence of new types of drugs that are included in the classification of New Psychoactive Substances (NPS) is feared to increase the high level of drug abuse and trafficking in the community. Law Number 35 of 2009 concerning Narcotics regulates drug abuse in Indonesia, which in Article 1 paragraph (1) of Law Number 35 of 2009 defines substances or drugs derived from plants or non-plants, both synthetic and semisynthetic, that can cause a decrease or change in consciousness, loss of taste, reduce or eliminate pain, and cause dependence.[4]

New types of synthetic drugs, also known as NPS, reach 893 worldwide, with 77 of them distributed in Indonesia. There are currently 892 new types of drugs in the world, with 77 NPS circulating in Indonesia, 73 of which are listed in the Appendix to Permenkes Number 5 of 2020, while 4 new types of drugs have not been regulated in the Permenkes. The development of NPS creates loopholes for crime. Permenkes number 4 of 2021, Permenkes 9 of 2022, and Permenkes number 30 of 2023 concerning changes in narcotics classification still include several new types of drugs that have not been identified in Indonesia. The existence of various types of drugs has become a new problem that needs to be addressed and faced. While the abuse of new types of drugs cannot be punished due to the principle of legality in criminal law, drug abuse is basically considered an offense that cannot be tolerated. In fact, people who commit narcotics offenses cannot be charged if the type of drug found is not listed in the Annex to the Narcotics Law.

Since 2009, the development of New Psychoactive Substances (NPS) has become an issue of global concern. NPS are various types of substances that are made in a similar way to the effects of drugs and psychotropic substances that we are familiar with, such as amphetamines, LSD, cannabis, cocaine, opioids, and so on. NPS have effects that are just as harmful and threatening to public health and human well-being as commonly known drugs and psychotropic substances. NPS abuse can lead to health problems such as the risk of contracting HIV/AIDS and Hepatitis C due to needle use, mental health disorders, overdose, and even premature death. NPS abuse can also lead to years of productive life lost due to disability or premature death. This can lead to social and economic losses and threaten resilience at national, regional, and global levels.**Christiana Christiana et al., "Terobosan Penegakan Hukum Dalam Menangani Ancaman New Psychoactive Substance (NPS) : Adopsi Ketentuan Hukum Internasional Terobosan Penegakan**

Hukum Dalam Menangani Ancaman New Psychoactive Substance (NPS) : Adopsi Ketentuan Hukum Internasional", Jurnal Kajian Stratejik Ketahanan Nasional, 3, no. 1 (2022), https://doi.org/10.7454/jkskn.v3i1.10034.

The number of New Psychoactive Substances (NPS) continues to increase at an alarming rate. Based on data from the UNODC, there has been a significant surge in the last six years. In 2019, 739 types of NPS were reported by various countries to the UNODC, and that number has skyrocketed to more than 1,300 types as of June 2025. In Indonesia, a similar situation is unfolding. A total of 172 types of NPS have been identified and regulated under Minister of Health Regulation No. 7 of 2025 on the Classification of Narcotics.[6]

NPS are substances that affect the central nervous system. NPS have not been regulated in the United Nations Single Convention on Narcotic Drugs 1961 or the United Nations Convention on Psychotropic Substances 1971. NPS is a new type of drug that has not been legally regulated in Indonesia, and there are 6 groups of NPS, including synthetic cannabinoids, synthetic cathinones, ketamine, phenethylamines, piperazines, and plant-based substances. Because it has not been legally regulated, drug makers deliberately create these six groups to trick law enforcement. NPS clearly endangers the Indonesian State.

Article 1 paragraph (1) of the Criminal Code states that the principle of legality affirms that no act can be declared a criminal offense or punished if it has not been regulated in advance in legislation. However, the development of New Psychoactive Substances (NPS) has not been followed by regulatory updates, particularly in Law No. 35 of 2009 on Narcotics and Minister of Health Regulation No. 44 of 2019 on Changes to the Classification of Narcotics, which do not include addictive substances as part of NPS. Given that the effects of these addictive substances are similar to those of narcotics, this situation may hinder law enforcement efforts by law enforcement agencies.[7]

A case of narcotics use was found in an Indonesian actor, Raffi Ahmad, whose test results were positive for 3,4-methylenedioxymethkatinone. In this case, Raffi Ahmad was not subject to criminal sanctions, based on the principle of legality, whereby an act cannot be punished unless it is based on the provisions of the applicable criminal law.

A different legal case known as the Blue Sapphire case involved a former Military District Commander (Dandim) and was contained in Cassation Decision Number 496

K/MIL/2017. This incident occurred in 2016 in a room of Penthouse 2 Hotel d'Maleo, Makassar City. During the incident, the defendant was carrying a small bottle labeled "Blue Sapphire" and dripped liquid from the bottle into a glass containing alcoholic beverages on the table. The laboratory tests done by the National Narcotics Agency (BNN) on December 14, 2015, showed that the liquid labeled "Blue Sapphire" had the compound 4-Chloromethcathinone (4-CMC), which is one of 41 types of new psychoactive substances (NPS) recognized as related to Cathinone. On this basis, the former Dandim was charged under Article 112 paragraph (1) or Article 127 paragraph (1) of Law Number 35 of 2009 concerning Narcotics. In its legal reasoning, the panel of judges stated that although the 4-CMC compound has not been explicitly listed in the appendix of the Narcotics Law or the appendix of the Minister of Health Regulation, this compound has been classified as part of the NPS group. Therefore, the use of the Blue Sapphire substance can be equated with the use of cathinone because it has similar psychoactive effects. And based on the decision of Decision Number 496 K/MIL/2017, he was sentenced to 10 (ten) months imprisonment and dismissed from military service.

Previous research conducted by Sri Delyanti et al. entitled "Analisis Yuridis Bagi Pelaku narkotika yang Jenis Narkobanya Tidak Terdaftar dalam Undang-Undang Narkoba" explains the principle of legality in the use of drugs that are not yet regulated in the case of Raffi Ahmad, where in this case the perpetrators of the crime cannot be punished because the drugs are not yet regulated. In a study conducted by Alfredo Risano entitled "Asas Legalitas Tindak Pidana Penyalahgunaan New Psychoactive Subtances dalam Kajian Hukum Pidana," it is explained that judges must make legal discoveries in adjudicating new types of narcotics that are not included in the appendix to the Narcotics Law. In a study conducted by Gilang Fajar Shadiq entitled "Penegakan Hukum Terhadap Tindak Pidana Narkotika New Psychoactive Subtance Berdasarkan Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika" it is stated that with the principle of legality, it is not possible to apply Law Number 35 of 2009 on Narcotics to be applied to criminal acts involving new psychoactive substances (NPS) because the narcotics that are being abused must first be included in the appendix to the law. Therefore, Law Number 35 of 2009 on Narcotics needs to be amended. In a study conducted by Lisa et al. entitled "Penegakan Hukum Terhadap Peredaran Narkotika Jenis New Psychoactive Subtance di Indonesia" it is stated that an alternative for NPS is to add NPS-type narcotics to the

appendix of narcotics types, specifically in Article 6 of the Narcotics Law. Then, in a study conducted by Aurelia Neyshanda Dascha Wibawa and Muhammad Rustamaji entitled "Penegakan Hukum Terhadap Tindak Pidana Narkotika Jenis New Psychoactive Subtance" discusses Court Decision Number 983/Pid.Sus/2023/PN Tng related to New Psychoactive Substance narcotics crimes, reviewed from the perspective of ratio decidendi in imposing penalties on narcotics dealers.

This study differs from previous studies in that it describes the case of Blu Safir, which is classified as a new psychoactive substance (NPS) that is not yet regulated in the Narcotics Law. In this study, the principle of legality can be set aside and perpetrators of criminal acts can be prosecuted. Therefore, the following problems arise: How is the principle of legality applied in law enforcement against the distribution of new types of narcotics (NPS) that are not yet regulated in Indonesian legislation? How is national criminal law policy formulated to deal with the development of new types of narcotics that are not yet regulated in Indonesian law?

2 METHOD

The research conducted is normative legal research, which is research conducted by examining laws, namely Law No. 35 of 2009 concerning Narcotics, , Permenkes 9 of 2022, and Permenkes number 30 of 2023 concerning changes in narcotics classification still include several new types of drugs that have not been identified in Indonesia and other related regulations. In addition, secondary legal materials in this study include law books, scientific journals, research results, articles, and seminar papers that provide explanations and analyses of primary legal materials (such as laws or regulations). Furthermore, interviews with expert informants were also used as a source in obtaining the results of this study. This type of normative legal research covers types of legal research that refer to the concept of law as a rule. This type of research is called the doctrinal-normological method, which begins with rules that serve as guidelines for directing behavior. Through a doctrinal approach, the research will examine aspects (to resolve existing problems within) positive law. The approaches used in this research are the statutory approach and the case approach. This research aims to analyze Court Decision 496 K/MIL/2017 regarding the blue sapphire case, thereby providing new

findings that narcotics classified as NPS, which are not yet regulated in Indonesian law, can be punished and can overcome the legal vacuum in this regard.

3 RESULT AND DISCUSSION

3.1 Application of the principle of legality in law enforcement against the distribution of new types of narcotics nps that have not been regulated in the rule of law in Indonesia

The principle of legality as stipulated in the *Wetboek van Strafrecht* (WvS) confirms that in principle, an act can only be punished if it meets two main requirements:

1. Actions that are considered as offenses must be clearly formulated in laws and regulations;
2. The legal provisions must have been in force before the prohibited act was committed.

According to Moeljatno, the principle of legality has three main meanings. First, an act cannot be a crime or subject to criminal sanctions if it has not been established as a prohibited act in the legislation. Second, in determining whether or not a criminal offense exists, analogical interpretation is not allowed. Third, provisions in criminal law cannot be applied retroactively. The principle thus serves as the foundation of legal certainty (rechtszekerheid) in criminal law and as protection against arbitrary state power,[8] as emphasized by Van Bemmelen and later reaffirmed in Hans Kelsen's Stufenbau theory, which places statutory law as the legitimate source of criminal norms.[9]

The adage nullum delictum, nulla poena sine praevia lege poenali, found in Article 1 paragraph (1) of the Criminal Code (KUHP), means that no one can be punished or face legal action for something unless it is clearly defined as a crime in the laws that were in place when the act happened. The principle of legality, which includes the principles of *nullum crimen sine lege and nulla poena sine lege*, is basically more suitable to be applied in a written criminal law system. This principle states that an act can only be punished if it has been explicitly regulated in the applicable positive legal provisions and is accompanied by the threat of criminal sanctions.[10] However, problems arise when

there are actions or behaviors that clearly cause disturbances to social order but have not been expressly regulated in the applicable legal norms. In this context, the idea of applying the principle of analogy as an alternative solution arises, although this approach often raises debates in the realm of criminal law, which highly upholds legal certainty..[11]

Rigidity in the application of the principle of legality in criminal law can create a legal vacuum, especially when it comes to cracking down on the abuse of new types of narcotics (NPS) that are rapidly emerging. In several European countries, legislators have attempted to respond to this vacuum not by waiting for each substance to be added to a positive list, but by adopting a more generic or outcome/effect-based approach. For example, the United Kingdom issued the Psychoactive Substances Act, which prohibits the production and distribution of all psychoactive substances that could potentially be used for psychoactive effects. This is a broad approach, but it has been criticized for potentially expanding criminalization without clear boundaries. Germany, on the other hand, applies a generic ban model (NpSG) that prohibits certain chemical families, thereby more quickly closing loopholes for the creativity of new substance producers. On the other hand, some countries (including approaches in parts of the Netherlands and EU policy trends) emphasize rapid monitoring and early-warning systems to assess public health risks while dynamically adjusting regulations. In the Indonesian context, when formal law does not yet cover a substance, legal science and enforcement practice often refer to the concept of rechtsvinding (legal discovery) used by officials to interpret or fill normative gaps as a practical measure that raises debates about legal certainty and the limits of the principle of legality.[12] According to Sudikno Mertokusumo, law discovery is the process of law formation by judges or other law enforcement officials who are authorized to apply general legal rules to concrete events.[13]

Legal interpretation is the responsibility of judicial institutions, especially judges, who have the authority to decide a case based on available legal considerations. Interpretation is one of the methods in legal discovery, which aims to provide clarity to statutory provisions that are still ambiguous so that the scope of norms can be applied appropriately to a particular legal event. However, in interpreting laws and regulations that are considered incomplete or unclear, a legal expert must not act arbitrarily. Among the most common methods of law discovery (*rechtsvinding*) used by judges is the method of interpretation. The legislator's intention must guide the interpretation of explicitly

formulated legal provisions. Judges are authorised to interpret articles in the law if the provisions are not clear enough or are incomplete. Meanwhile, analogical interpretation in criminal law is prohibited if it causes the expansion of the elements of a criminal offence. However, analogical interpretation can be justified to fill the legal vacuum in the law, as long as it does not exceed the limits of the existing formulation. Thus, analogy is only allowed on a limited basis as an exception to the provisions of Article 1, paragraph (1), of the Criminal Code.

According to Satjipto Rahardjo, law enforcement is understood as a process of realising legal provisions, namely ideas that come from the legislature and have been formulated in the form of laws and regulations. The process aims to actualise these legal norms in real life. In the context of the criminalisation of narcotics crimes, law enforcement must be orientated towards creating the effectiveness of legal norms as guidelines for perpetrators in legal interactions in society and the life of the nation. Law enforcement is a means to realise the values and concepts of law expected by society. Conceptually, the essence of law enforcement lies in its application in the social life of society.

Law enforcement against illegal drug trafficking is specifically regulated in the Narcotics Law, precisely in Chapter XII, from Article 73 to Article 103. These articles contain specific provisions that regulate the process of investigation, prosecution, and examination in court, which serve as guidelines for law enforcement officials in handling cases of drug abuse and trafficking.

The specificity of this arrangement is in line with the principle of *lex specialis derogat legi generali*, which is a legal principle that states that special rules override general rules. According to Bagir Manan, there are several important principles in the application of this principle, namely: a) Provisions in general law (common law) remain in force, unless they are explicitly regulated in special law; b) Special legal provisions (lex specialis) must be within the same scope as general law (lex generalis); c) Special law must be within the same regulatory scope as general law, in this case, the Narcotics Law is within the same framework as the Criminal Code and KUHAP.[14] Thus, the provisions in the Narcotics Law are prioritised in handling drug abuse cases. Law enforcement against drug abuse perpetrators who are charged with crimes includes three

main aspects, namely the elements of the offence, criminal responsibility, and punishment sanctions.

Actually, the legal instruments available to deal with narcotics problems are quite adequate. However, Law No. 35/2009 on Narcotics does not include several new types of narcotics on its list. The lack of regulation for these new types of narcotics has created obstacles in the law enforcement process, particularly regarding procedural law. If a type of drug is not explicitly included in the articles used as the basis for prosecution, then the public prosecutor does not have a strong legal basis to bring the case to court.

The law was born with the aim of ensuring justice and legal certainty. Therefore, if in a case there are no legal provisions that clearly regulate it, then the process of imposing sanctions cannot be continued, because the principles of justice and legal certainty cannot be fulfilled. This is in line with the principle of legality, which aims to provide a guarantee of justice for all citizens, including the people of Indonesia. In the case involving Raffi Ahmad, for example, there is still no clarity regarding the form of sanctions that can be imposed, because there is no regulation that specifically regulates his actions. The abuse of narcotics and dangerous drugs (drugs) is a complex issue that can be viewed from various perspectives, including medical and psychosocial aspects.

Thus, the doctrine of rechtsvinding allows judges to interpret vague norms, but not to create new offenses. Sudikno Mertokusumo and judicial practice show that interpretation must be bound by the intent of the legislature and the limits of the text. Therefore, analogy remains prohibited if it expands the elements of an offense, but in practice it may be permitted to a limited extent if used as an instrumentum subsidiarium to prevent serious impunity, provided that: (a) there is strong scientific evidence of similarity in effect or danger; (b) the use of analogy does not alter the core of the criminal norm (mens rea and the basic elements of the offense must still be fulfilled); and (c) there are testable forensic procedures.

Narcotics abuse that has not been regulated in the rule of law also occurred in Makassar, namely in Cassation Decision Number 496 K/MIL/2017 related to the Blue Safir case. This Blue Safir case involved a former Dandim and occurred in 2016 in the Penthouse 2 room of the D'Maleo Hotel, Makassar. During the incident, the defendant brought a small bottle labelled "Blue Sapphire" and dripped its contents into a glass containing alcoholic beverages on the table. The liquid in the bottle was later found to

contain the substance 4-Chloromethcathinone (4-CMC), which is one of 41 types of NPS as listed in the report of the BNN Drug Testing Laboratory Centre on December 14, 2015. This substance is a derivative of cathinone. For his actions, the former Dandim was charged with violating Article 112 paragraph (1) or Article 127 paragraph (1) of Law Number 35 of 2009 concerning Narcotics. In his consideration, the judge stated that although the 4-CMC compound has not been registered in the appendix of the Narcotics Law or Permenkes, because the compound is included in the list of 41 NPS, its use is considered equivalent to the use of cathinone, given the similarity of the effects caused.

Theoretically, the principle of legality serves to protect citizens from potential abuse of authority by law enforcement officials, guarantee legal certainty, and ensure that everyone understands the limits of the applicable law before being subject to sanctions.[15] This principle is in line with the views of a number of legal experts, who state that legality is a form of constitutional protection against repressive state actions. Van Bemmelen stated that the principle emerged as a response to the need to limit state power so as not to act arbitrarily. However, in its application, there is often a conflict between the principle of legality and the role of judges in conducting legal discovery, especially when dealing with criminal offences that have not been specifically regulated in the applicable laws and regulations.

Conflicts between the principle of legality and the principle of legal discovery by judges often arise in certain cases, such as cases of new types of narcotics that have not been listed in the legislation or its appendices. Article 10 paragraph (1) of Law No. 48/2009 on Judicial Power states that courts may not refuse to examine, hear, and decide cases on the grounds that the law in question does not yet exist or is unclear. This rule provides space for judges to not only carry out the role of law enforcer but also act as a law finder (rechtvinding), where judges have the responsibility to interpret or even formulate the law when relevant provisions are not yet available or are still vague.

From the perspective of legal positivism, the principle of legality requires that law enforcement be strictly bound by written norms.[16] However, the rapid emergence of new psychoactive substances (NPS) chemicals that mimic the effects of narcotics but are not yet listed in the appendices of Law No. 35 of 2009 on Narcotics has created a serious legal vacuum. This rigidity undermines the effectiveness of criminal law in addressing contemporary social harms. In this context, the theory of law discovery (rechtsvinding)

proposed by Sudikno Mertokusumo becomes relevant, when the law is incomplete or unclear, judges are authorized to interpret norms to resolve concrete cases, provided they do not exceed legislative intent or expand the elements of an offense.[17]

Thus, the doctrine of rechtsvinding allows judges to interpret vague norms, but not to create new offenses. Sudikno Mertokusumo and judicial practice show that interpretation must be bound by the intent of the legislature and the limits of the text. Therefore, analogy remains prohibited if it expands the elements of an offense, but in practice it may be permitted to a limited extent if used as an instrumentum subsidiarium to prevent serious impunity, provided that: (a) there is strong scientific evidence of similarity in effect or danger; (b) the use of analogy does not alter the core of the criminal norm (mens rea and the basic elements of the offense must still be fulfilled); and (c) there are testable forensic procedures.

The Blue Sapphire case is a clear example of the challenges in applying the principle of legality. New types of narcotics, such as 4-CMC, have not been listed in the appendix to the Minister of Health Regulation Number 13 of 2014 concerning Narcotics Classification. However, during the trial, expert witnesses such as Professor Said Karim confirmed that the substance has an effect equivalent to Class I narcotics. Under certain conditions, the principle of legality can be ignored, especially if the action is carried out in a planned, structured manner and has a wide impact on society. This reflects that although the principle of legality is a fundamental principle, in certain situations judges can consider other factors such as public interest and efforts to protect the community as a basis for upholding justice.

In the Blue Safir case, the judge referred to Article 10, paragraph 1, of Law Number 48 of 2009, which emphasises that the court may not reject a case simply because the law is not yet available or unclear. This shows the active role of judges as seekers of justice, who are not only tasked with ensuring legal certainty but also considering the values of justice and expediency in every decision. This case also emphasises the importance of the independence of judicial power in Indonesia, free from the intervention of any party, to ensure the achievement of justice balanced with legal certainty. If the handling of new types of narcotics cases in Indonesia is only focused on the principle of legality, there will be a large gap that can be utilised by perpetrators, both users and dealers, to distribute new forms of narcotics without being legally charged.

In the Blue Sapphire case (Cassation Decision No. 496 K/MIL/2017), the judge stated that although 4-CMC was not listed in the appendix to the Narcotics Law or the Minister of Health Regulation, the substance could be treated as equivalent to cathinone due to the similarity of the effects it produced. This consideration has sparked debate as to whether the judge's decision constitutes judicial activism that could potentially undermine the principle of legality, or whether it is a pragmatic compromise to fill a legal vacuum. If viewed as activism, this decision is vulnerable to criticism for undermining legal certainty and opening the door to judicial subjectivity. Conversely, if viewed as a middle ground, the ruling reflects the judge's responsibility to protect the public from the dangers of NPS when legislation is inadequate. However, viewed as pragmatism, the decision is a functional response to real threats when legislation lags behind. A more mature normative approach would be to view such decisions as interim judicial solutions that may be used only when emergency legislative mechanisms are unavailable and accompanied by an obligation for the legislature to follow up immediately.

This debate highlights the tension between legal certainty and pragmatic justice. This is where the relevance of the principle of lex specialis derogat legi generali must be expanded. The Narcotics Law as lex specialis does indeed override the Criminal Code, but its weakness is its closed list nature, which makes it unresponsive to developments in NPS. The normative solution is to strengthen the emergency scheduling mechanism through the Minister of Health, who is authorized to establish a temporary classification (emergency list) that is valid for a maximum of 12 months and can only be used as a basis for criminal prosecution if there are implementing provisions that regulate the criminal effects of such classification, as is the case in the United Kingdom, the United States, and Germany, where health authorities are given the authority to establish emergency lists of new substances that are temporarily valid until formal legislation is updated.

In addition, to clarify the position of the Ministerial Regulation, if it is positioned as the basis for imposing criminal sanctions, then it conflicts with Hans Kelsen's theory of the hierarchy of norms (Stufenbau theory), because ministerial regulations cannot override laws. To be consistent, the Ministerial Regulation can only be treated as delegated legislation for administrative purposes, not as a basis for imposing criminal penalties. Therefore, legal resolution should be pursued through the revision of the

Narcotics Law or the establishment of an emergency list mechanism based on government regulations, not through ministerial regulations, which are lower in the hierarchy.

Therefore, normatively speaking, the most appropriate policy choice is neither to rigidly uphold legality nor to leave everything to the creativity of judges. The solution that is consistent with the theoretical hierarchy of norms is to combine: (a) strict judicial interpretative restrictions (functional equivalence test); (b) clearly defined administrative delegation in the law for temporary classification; and (c) a rapid legislative mechanism (emergency scheduling with oversight by the House of Representatives, specifically Commissions III and IX, the Minister of Health, and the National Narcotics Agency). This approach upholds the principle of nullum crimen sine lege, protects legal certainty, and provides responsive instruments to address the challenges of NPS. The implementation of this solution will reduce reliance on high-risk judicial analogies and place the creation of criminal norms in the appropriate forum, namely the legislature, with the support of scientific evidence and democratic oversight.

3.2 Formulation of National Criminal Law Policy in Facing the Development of New Types of Narcotics that Have Not Been Regulated in the Indonesian Rule of Law

Indonesia has many types of regulations. However, not all of these regulations can be considered laws. Because these regulations cannot be considered as laws and regulations if they do not meet several criteria. According to Article 1 point 2 of Law Number 12 of 2011, as amended by Law Number 15 of 2019, laws and regulations are written regulations containing general rules stipulated or made by state institutions or authorised officials in accordance with procedures regulated in the Laws and Regulations.

One of the main indicators in distinguishing laws from other types of legislation is the requirement that they be in writing. This is important because written regulations have a distinctive and standardised writing structure and format. Based on Appendix II, Chapter I of Law Number 12/2011 on the Formation of Legislation, the next indicator is that laws must contain legal norms that are generally binding. This general legal norm, when viewed from the point of view of the legal subject, means that the regulated provisions apply to situations or conditions that are general in nature and not to specific circumstances or events.

Rapid developments in the field of synthetic chemistry have led to the emergence of NPS that are often not covered by positive legal regulations in Indonesia. According to the 2023 Indonesia Drugs Report, there are 91 types of NPS identified in Indonesia, with 85 types regulated in the 2022 Permenkes, while 6 types are not yet regulated.[18] Entering the end of 2024 until mid-2025, BNN stated that 167-172 types of NPS have been circulating, around 167 types have been included in the regulation of Permenkes Number 30 of 2023, so there are still around 5-6 types of NPS that have not been legally regulated.[19] This shows a significant legal vacuum, where regulations cannot keep up with the pace of innovation and the emergence of new NPS.

Currently, Indonesia still relies on Law No. 35/2009 on Narcotics as the main legal instrument used by Indonesia in regulating and controlling narcotics trafficking. However, this law shows significant weaknesses in anticipating the emergence of new types of narcotics. One of the fundamental weaknesses lies in the closed list system approach, which lists specific substances in an appendix that can only be updated through a Minister of Health Regulation. This system leads to regulatory loopholes when NPS have not been included in the official list, despite having similar or even more dangerous effects than drugs that have been banned.

The Narcotics Law itself has regulated the classification of types of narcotics mentioned in Article 6, paragraph (1), which is divided into 3 groups, as for the division, it is as follows:

a. Narcotics Group I is a type of narcotics that can only be used for the purpose of scientific development and is not used in therapy, and has a very high potential to cause dependence;
b. Narcotics Group II is a type of narcotics that is efficacious for treatment used as a last resort and can be used in therapy and / or for the purpose of developing science and has a high potential to cause dependence;
c. Narcotics Group III is a type of narcotics that has medicinal properties and is widely used in therapy and / or for the purpose of developing science and has a mild potential to cause dependence.

The Narcotics Law in its appendix mentions a list of narcotics from Group I to Group III, the position of the Minister of Health Regulation (Permenkes) is very important in determining the classification of new types of narcotics that have not been explicitly

regulated in Law Number 35 of 2009 concerning Narcotics. The Permenkes functions as an implementing regulation that allows rapid adaptation to the development of new types of narcotics that have not been listed in the law.Negara Republik Indonesia, "Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika", (2009): Lihat Pasal 49 Ayat (3).

Another weakness of the Narcotics Law lies in its dependence on the appendix as the sole legal reference for the classification of narcotics, which makes the law less responsive to the rapid emergence of new psychoactive substances (NPS). Since criminal liability in Indonesia is bound to the principle of legality, any substance not explicitly listed in the appendix cannot be prosecuted under the Narcotics Law, even if it has psychoactive effects comparable to those already classified. This rigid approach not only creates legal loopholes but also undermines law enforcement efforts against the dynamic circulation of NPS, leading to disparities between the speed of substance innovation and the adaptability of the legal framework.[21] Another weakness of the Indonesian Narcotics Law is the absence of an emergency scheduling mechanism, or what in some jurisdictions is called *emergency control* or *temporary banning orders*.

In the United States, the Controlled Substances Act authorizes the Drug Enforcement Administration (DEA) to temporarily place a substance under Schedule I for two years (extendable by one year) when it is deemed to pose an imminent public health risk.[22] In the United Kingdom, the Home Office may issue *Temporary Class Drug Orders* (TCDOs) that impose temporary bans on newly emerging psychoactive substances for up to 12 months, thus preventing rapid market distribution while further assessments are conducted.[23] Meanwhile, Germany applies a similar system through the *Neue-psychoaktive-Stoffe-Gesetz* (NpSG), which enables the rapid inclusion of new synthetic compounds into generic substance groups, thereby closing loopholes in criminal liability.[24] Compared to these systems, Indonesia's legal framework remains rigid because any addition of new substances requires formal legislative or ministerial revision, which is procedurally lengthy and risks creating a legal vacuum in responding to the fast proliferation of new psychoactive substances.

As a result, the process of adding new substances to the narcotics list takes a long time through scientific studies and administrative procedures, so it is unable to keep up with the speed of innovation in the production and distribution of NPS by international syndicates. In practice, many cases of arrests of NPS users or dealers cannot be processed

criminally because the substance in question is not yet included in the legal appendix, thus creating legal uncertainty and weakening law enforcement efforts. For example, high-profile arrests involving *methylone* (*a synthetic cathinone*), such as the case of public figure Raffi Ahmad in 2013.

The status of Minister of Health Regulation (Permenkes) No. 35 of 2009 is still considered unclear in the Indonesian legal system. On the one hand, Article 6 paragraph (3) of Law No. 35 of 2009 on Narcotics gives the Minister of Health the authority to classify narcotics, including adding new types of narcotics based on scientific evaluation and recommendations from relevant authorities. However, within a more general legal framework, Law No. 12 of 2011 on the Formation of Legislation only recognizes ministerial regulations as valid if they are mandated by higher-level regulations (Article 8), but does not explicitly include them in the hierarchy of regulations as mentioned in Article 7.

As a result, the position of the Minister of Health Regulation has become ambiguous, raising the question of whether it can be considered equivalent to an implementing regulation that has binding force (erga omnes), or whether it is merely an internal administrative regulation of the ministry. This ambiguity poses a serious problem in the context of criminal law, because the designation of narcotics through the Ministerial Regulation has direct implications for the criminalization of the public, while the principle of legality (nullum crimen sine lege) requires a clear and definite legal basis. This situation has led to confusion in law enforcement practices, where on the one hand the Ministerial Regulation is seen as an important instrument for responding quickly to the emergence of New Psychoactive Substances (NPS), but on the other hand its unclear legal status raises the potential for legal debate in court proceedings and prosecutions.[25]

As the implementing regulation of the Narcotics Law, the Minister of Health Regulation (Permenkes) plays an important role in determining and updating the official list of narcotics in Indonesia as a technical derivative of the implementation of Law No. 35/2009 on Narcotics. In Indonesia's positive legal system, Permenkes is a normative instrument that establishes the classification of narcotics into classes I, II, III and accommodates the addition of new substances based on scientific recommendations and risk evaluation. For example, Permenkes No. 30 of 2023 has stipulated the addition of several psychoactive substances to the list of class I narcotics in response to the threat of

synthetic narcotics. However, in the context of the NPS phenomenon, the role of the Permenkes is considered not responsive enough because it relies on a closed list system that is not flexible in dealing with the dynamics of the global narcotics black market.[26]

The main limitation of the Permenkes on narcotics in dealing with NPS lies in its administrative and procedural nature. The process of adding a new substance to the narcotics list requires scientific studies, cross-agency coordination, and considerable time before it is officially published. During the waiting period, NPS that have not been included in the list can still be circulated and consumed legally, because they cannot be subject to criminal articles by law enforcement. On the one hand, many NPS have chemical structures that are very similar to substances that have been regulated in the Narcotics Law or the Minister of Health Regulation regarding the classification of narcotics types. The absence of an emergency scheduling mechanism or a legal approach based on structural similarities causes Indonesia to lag behind in counteracting the rapid and cross-border distribution of NPS. The Permenkes as a ministerial regulation is limited in its reach under criminal law. It only serves as an administrative basis for classification, but does not directly extend criminal jurisdiction without a revision to the Law on Narcotics.

The emergence of NPS has created great challenges for the criminal law system in Indonesia, especially in the aspects of legal classification and criminal proof. Because many types of NPS have not been formally identified in regulations, resulting in a legal vacuum. Under these conditions, law enforcement officers face difficulties in applying criminal charges due to the absence of a clear normative basis regarding the legality of these substances.

The Permenkes does not provide clear qualifications on the types of narcotics and psychotropic substances, which may blur the line between legal and illegal substances. This lack of clarity has the potential to ensnare individuals who have no malicious intent, such as those who do not know that a substance is a narcotic. The Narcotics Law should establish clearer criteria to minimize the risk of prosecuting innocent individuals.

The absence of legal classification of certain NPS means that perpetrators of substance abuse or trafficking cannot be criminally prosecuted, even though the substances used have psychoactive effects that are equivalent or even more dangerous than conventional narcotics. This creates a condition where the law has non-enforceability

and opens space for criminals to systematically utilize legal loopholes. Just because the substance has not been explicitly listed in the official narcotics list, the authorities cannot determine it as an object of criminal offense. This is exacerbated by the slow bureaucratic procedure for updating the list of prohibited substances through the Permenkes, as well as the absence of an emergency scheduling mechanism that allows for a temporary ban on the basis of preliminary laboratory evidence or the potential danger of the substance.

The approach in the Narcotics Law tends to be punitive, while the Permenkes focuses more on health aspects. This misalignment can lead to confusion in the application of the law, where law enforcement officials may prefer to take criminal action rather than seek rehabilitative solutions for people who use drugs. This has the potential to exacerbate the problem of overcrowding in prisons and does not solve the root causes of drug abuse.[27]

The evidentiary process in the criminal domain against NPS users or dealers also faces significant obstacles. In many cases, law enforcement officials require the results of complex toxicology laboratory tests to confirm that the seized substances fall into the psychoactive category. However, limited forensic laboratory facilities and officers' lack of technical understanding of the chemical structure of NPS often hamper the process. As a result, the law enforcement process is not only slow, but also at high risk of misapplication of the law, i.e. the condition when judges are unable to impose a verdict due to the absence of substantive legal norms.

The context of overcoming NPS, based on criminal law policies that are not based on the principle of legality, has great potential to violate human rights (HAM). Prosecution of users or dealers of psychoactive substances that have not been officially classified as narcotics by law or technical regulations, creates legal uncertainty and opens space for arbitrary repressive actions. This is contrary to the constitutional guarantee of protection of the right to legal certainty and fair treatment in the judicial process. Therefore, the formulation of a new national criminal law policy is an urgent need, so that the Indonesian legal system is able to respond to the dynamics of narcotics crime without compromising the principle of legality and the constitutional rights of citizens.

A more flexible, adaptive and science-based legal system is needed, especially in terms of classification and handling of NPS. A science-based approach through toxicology, pharmacology, and chemical structure analysis is an important basis in

determining the legal status of a substance.[28] In this regard, the legal system in Indonesia needs to adopt anticipatory mechanisms, such as early warning systems and temporary scheduling.[29] These mechanisms allow health authorities and law enforcement to immediately respond to the emergence of NPS with temporary legal status pending the results of studies and permanent regulations.

Successful policy reform requires synergistic and integrated cross-agency collaboration, including the National Narcotics Agency (BNN), the Ministry of Health, the Indonesian National Police, and the Ministry of Law and Human Rights (Kemenkumham). BNN as the frontline in monitoring drug trafficking must be integrated with the Ministry of Health's data and laboratories to ensure the validity of substances, while law enforcement in the community through the police must refer to accurate legal standards. Meanwhile, the Ministry of Law and Human Rights plays a central role in harmonizing the reformulation of legal norms with human rights principles and state constitutional obligations. Without multisectoral cooperation and strong legislative reform, Indonesia will continue to face a cycle of regulatory weakness and potential human rights violations in handling NPS.

The rapid and unpredictable development of NPS has posed serious challenges to the effectiveness of the criminal law system in various countries, including Indonesia. A legal system that is rigid and lags behind the dynamics of narcotics crime has the potential to create a legal vacuum and ineffective law enforcement. Therefore, a model of criminal law policy reformulation is needed that is not only reactive, but also adaptive, science-based, and responsive to change. In this context, there are three main model approaches that can be used as the basis for policy, namely legislative, administrative, and combined.

The Legislature focused on the need to revise Law No. 35/2009 on Narcotics as the formal legal basis for NPS control. The revision should include the development of more flexible and open legal norms, such as the application of an analogy or generic scheduling approach, which allows new substances that have chemical structures and pharmacological effects similar to narcotics that are already regulated and included in the Narcotics Law and Permenkes on Narcotics to be sentenced, even though they are not explicitly listed in the annex list.

In addition, new legislation is needed to contain emergency scheduling provisions so that the government has emergency powers to temporarily ban psychoactive

substances that pose a high risk to public health pending further scientific studies. Law reform in this model creates legal certainty and strengthens the juridical basis for law enforcement officials in cracking down on new types of drug offenders in a fair and constitutional manner.

Administrative emphasizes strengthening the authority of the Ministry of Health as a technical agency to quickly and efficiently establish a new list of narcotics through the mechanism of ministerial regulations. In this model, substance classification updates are no longer entirely waiting for legislative changes, but can be done through a science-based approach, epidemiological data, and laboratory findings. Administrative is considered more adaptive to the dynamics of the illicit drug market, but also demands a governance system that is transparent, accountable and has high standards of scientific proof so as not to conflict with the principles of human rights and criminal legality.

The combination offers the most ideal solution in the context of the Indonesian legal system, by combining the normative power of the legislative approach with the technocratic flexibility of the administrative approach. This allows for a rigid legal structure to ensure long-term legal certainty, but also allows for dynamic mechanisms to respond quickly and appropriately to new threats. In this method, the Narcotics Law remains the master framework that sets the basic principles, while the updating of the list of psychoactive substances is done administratively through cross-agency coordination, such as BNN, Ministry of Health, Police and Ministry of Law and Human Rights. This scheme mimics the approach of some developed countries such as Germany and the UK, which have successfully integrated permanent legal structures with early warning systems and temporary classifications as part of an adaptive and sustainable legal system for drug offenses.

The emergence of NPS has become a transnational challenge that requires a swift, adaptive and science-based legal response. Due to their evolving and unpredictable nature, countries around the world have adopted diverse legal approaches in tackling the threat. In this context, a comparative study of international law is essential to assess the effectiveness and efficiency of criminal policies in various jurisdictions in responding to NPS, as well as formulate a scientific basis for national legal reform in Indonesia.

Some countries have developed innovative legal frameworks in response to the proliferation of NPS. The UK implemented the Psychoactive Substances Act 2016

essentially regulated by Section 2 (definition of psychoactive substance) together with Section 3 (exceptions) of the Psychoactive Substances Act 2016 (UK), which bans all psychoactive substances that have the effect of affecting mental function or behavior, except for explicitly excluded substances such as alcohol and tobacco. This model adopts a "blanket ban" approach to new known substances, narrowing the legal loopholes that NPS manufacturers exploit.Jan Van Amsterdam, Nicholas Burgess, and Wim Van Den Brink, Op.Cit.

Meanwhile, the United States through the Controlled Substances nalogue Enforcement Act of 1986 describe is legally grounded in 21 U.S.C. § 802(32)(A) (definition) and 21 U.S.C. § 813 (legal treatment) uses an analogue scheduling approach, which allows the criminalization of substances that have chemical structures and pharmacological effects similar to illicit drugs, even though they are not explicitly listed in the Act.[31] On the other hand, Germany through the Neue- psychoaktive-Stoffe-Gesetz (NpSG) is primarily regulated by § 2 NpSG (general prohibition on NPS) in conjunction with § 4 NpSG (authority to expand the substance groups) implemented a flexible generic classification system integrated with a laboratory-based early warning system. Germany demonstrates a strong synergy between administrative and scientific approaches in determining the legal status of NPS.[24]

These approaches reflect a global awareness of the need for a legal system that is not only repressive, but also adaptive and evidence-based. Tackling NPS is not enough to rely on conventional law changes, which tend to be time-consuming and prone to lagging behind drug development regulations. Countries that successfully control NPS adopt dynamic, responsive legal systems and are supported by technical administrative authorities that are authorized to carry out emergency scheduling violations with a strong scientific basis. In addition, collaboration between law enforcement agencies, health regulatory agencies, and forensic laboratories is a key pillar in detecting and responding to drug developments in a rapid and coordinated manner. [32]

To overcome these weaknesses, this research proposes a reformulated national criminal law policy that integrates legislative and administrative innovation. The legislative reform should focus on amending Law No. 35/2009 to introduce more flexible and open legal norms, such as generic or analogue scheduling, which allow substances with similar chemical structures and pharmacological effects to be regulated without

explicit enumeration. Furthermore, the revised law should include emergency scheduling provisions, granting temporary authority to the government to control potentially harmful NPS pending further scientific evaluation.

The implementation of the proposed national criminal law policy reform presents several challenges. First, institutional fragmentation remains a major obstacle. Coordination among the Ministry of Health, BNN, Police, and Kemenkumham is often hampered by overlapping mandates, inconsistent data sharing, and differing institutional priorities. Without a unified data and communication system, the rapid identification and classification of NPS will remain difficult.

Second, technical capacity and resource limitations in forensic laboratories and research institutions hinder timely toxicological analysis of new substances. The establishment of a national early warning system (EWS) integrated with scientific laboratories and real-time law enforcement reporting is therefore critical.

Third, legal and human rights safeguards must be carefully maintained. Expanding regulatory flexibility through emergency scheduling could risk arbitrary enforcement or overcriminalization if not accompanied by procedural guarantees and judicial oversight. Thus, the principle of legality and proportionality must remain central in every reform step.

Despite these challenges, the reform offers significant opportunities. It can strengthen legal certainty and law enforcement effectiveness by closing normative gaps in the Narcotics Law. It can also promote interdisciplinary collaboration between legal, health, and scientific institutions, leading to a more holistic, evidence-based drug control policy. Moreover, adopting adaptive legal mechanisms aligns Indonesia with international best practices and enhances its credibility in global narcotics control cooperation, particularly with the UNODC and ASEAN frameworks.

In sum, the reformulation of national criminal law policy toward NPS control represents not merely a legislative amendment but a paradigm shift toward a science-driven, human rights–compliant, and adaptive legal system. By integrating the strengths of both legislative and administrative approaches, Indonesia can establish a more responsive and effective criminal policy that safeguards public health while upholding the constitutional principles of legality and justice.

For Indonesia, this comparative study has crucial implications for the direction of drug law reform. Currently, Indonesia relies heavily on legislation and the Permenkes to list new drugs, which has limitations in terms of speed and flexibility. It is therefore important for policymakers to consider implementing a combined system as in Germany and the UK, which combines legislative rigor with administrative agility. Integration with the national early warning system, increasing the capacity of forensic laboratories, and developing a science-based adaptive regulatory framework are strategic steps that need to be adopted immediately. On the other hand, adjustments to the criminal law model must maintain the principles of legality, proportionality, and protection of human rights, so that the policies implemented do not deviate from the principles of substantial justice.

4 CONCLUSION

The court may not dismiss a case solely on the grounds that the law is not yet available or unclear (Article 10(1) of Law No. 48 of 2009). This demonstrates the active role of judges as seekers of justice, who are not only tasked with ensuring legal certainty but also with considering values of justice and utility in every decision. This rule provides judges with the discretion to not only act as enforcers of the law but also as discoverers of the law (rechtvinding), where judges have the responsibility to interpret or even formulate the law when relevant provisions are unavailable or unclear, as demonstrated in the blue sapphire case addressed in the Supreme Court Decision No. 496 K/MIL/2017, the judge stated in his considerations that although the compound 4-CMC was not listed in the annex to the Narcotics Law or the Minister of Health Regulation, since the compound is included in the list of 41 NPS, its use is considered equivalent to the use of Chatinone, given the similarity of the effects caused. Furthermore, Professor Said Karim, an expert witness in the case, affirmed that the substance has effects equivalent to those of Schedule I narcotics. In certain theoretical discussions, the principle of legality is considered capable of being set aside under exceptional conditions, especially if the action is carried out in a planned, structured manner, and has a significant impact on society.

Indonesia faces serious challenges in combating NPS due to its rigid, slow, and inflexible legal framework. The closed list system, the absence of an emergency scheduling mechanism, and the unclear status of the Minister of Health Regulation create

a legal vacuum and undermine the principle of legality. Unlike the United Kingdom, the United States, and Germany, which have implemented more flexible and science-based legal models, Indonesia needs to carry out concrete reforms by revising the Narcotics Law and adopting several options that can be considered, such as analogue scheduling, blanket bans, emergency scheduling with parliamentary oversight, the establishment of an early warning system, and the affirmation of regulatory hierarchy. With these steps, the national legal system can become more adaptive, evidence-based, and uphold the principle of legality and the protection of citizens' constitutional rights.

REFERENCES

1. Mahaputra, I. B. G. B., Dewi, A. A. S. L., & Suyani, L. P. (2022). Upaya penanggulangan tindak pidana penyalahguna narkotika. *Jurnal Analogi Hukum, 4*, 311–315.

2. Nur, A., Thalib, H., & Bima, M. R. (2021). Penerapan asas legalitas dalam penegakan hukum pelaku tindak pidana narkotika berdasarkan ketentuan minimum khusus. *Jurnal Lex Generalis, 2*, 2722–7871.

3. Handayani, F. R. (2022). Analisis kewenangan pejabat penyidik negeri sipil (PPNS), imigrasi, penyidik Polri dan penyidik Badan Narkotika Nasional (BNN) dalam tindak pidana penyalahgunaan narkotika di wilayah perbatasan Republik Indonesia–Papua New Guinea. *Dinamika Hukum, 13*, 23–39.

4. Kadir, A., et al. (2021). Sosialisasi hukum terhadap tindak pidana narkotika jenis baru di Kelurahan Tanah Tinggi Kota Tangerang. *Jurnal Dedikasi Hukum, 1*, 220–230.

5. Christiana, C., Mutia, A., Ramdlonaning, A., & Fatrika, S. (2020). Terobosan penegakan hukum dalam menangani ancaman new psychoactive substance (NPS): Adopsi ketentuan hukum internasional. *Jurnal Kajian Stratejik Ketahanan Nasional, 3*.

6. Badan Narkotika Nasional Republik Indonesia. (2025). *New psychoactive substances (NPS): Ancaman baru yang wajib diwaspadai*.

7. Delyanti, S., Ablisar, M., Mulyadi, M., & Ekaputra, M. (2022). Analisa yuridis bagi pelaku narkotika yang jenis narkobanya tidak terdaftar dalam undang-undang narkotika. *Mahadi: Indonesia Journal of Law, 1*, 112–124.

8. Janderová, J., & Hubálková, P. (2021). Legal certainty – protected values and partial objectives: The case of the Czech Republic. *Central European Public Administration Review, 19*, 63–82.

9. Wijatmoko, E., Armawi, A., & Fathani, T. F. (2023). Legal effectiveness in promoting development policies: A case study of North Aceh Indonesia. *Heliyon, 9*, 1–22.

10. Ahmad Shabirin, & Arjun. (2025). Asas legalitas dalam penanggulangan radikalisme online: Perspektif hukum pidana Indonesia. *Jejak Digital: Jurnal Ilmiah Multidisiplin, 1*, 333–344.

11. Hafizhah, A., Santoso, T., Marlina, M., Barus, U. M., & Sukarja, D. (2024). Analogy in criminal law: Contrasting approaches in Indonesian and Islamic legal frameworks. In *Proceedings* (pp. 1058–1066). Atlantis Press SARL. https://doi.org/10.2991/978-2-38476-303-0_94

12. Van Amsterdam, J., Burgess, N., & Van den Brink, W. (2023). Legal approaches to new psychoactive substances: First empirical findings. *European Addiction Research, 29*, 363–372.

13. Wibawa, A. N. D., & Rustamaji, M. (2024). Penegakan hukum terhadap tindak pidana narkotika jenis new psychoactive substances. *Verstek, 12*, 80.

14. Anton Suriyadi Siagian. (2021). Tindak pidana narkotika (lex specialis derogat legi generalis). *Sustainable, 11*, 1–14.

15. Amir, F., et al. (2023). Implementation of the legality principle in the criminal justice system of Indonesia. *Journal of Political and Legal Sovereignty, 1*, 123–129.

16. Gallego, J. (2023). Legal positivism's internal morality. *Oxford Journal of Legal Studies, 43*, 456–474.

17. Sujono, I. (2022). Urgency of rechtvinding and jurisprudence in the constitutional court authority. *Journal of Constitutional Law and Society*, *1*, 161–178.

18. Badan Narkotika Nasional Republik Indonesia. (2023). *Indonesia drug report* (Vol. 5).

19. Badan Narkotika Nasional. (2024). *Laporan akhir tahun 2024: Penguatan strategi dan aksi kolaborasi dalam P4GN* (pp. 1–155).

20. Republik Indonesia. (2009). *Undang-undang Nomor 35 Tahun 2009 tentang narkotika*.

21. Nohanaa, N. G. A. S., Suryawan, I. G. B., & Rideng, I. W. (2023). Criminal liability for the abuse of a new type of narcotics (alpha propylaminopentiophenone) in Indonesia. *Journal of Equity Law and Governance, 3*, 52–57.

22. Santos, I. C., Maia, D., Dinis-Oliveira, R. J., & Barbosa, D. J. (2024). New psychoactive substances: Health and legal challenges. *Psychoactives, 3*, 285–302.

23. Deen, A. A., Claridge, H., Treble, R. D., Hamnett, H. J., & Copeland, C. S. (2021). Deaths from novel psychoactive substances in England, Wales and Northern Ireland:

Evaluating the impact of the UK psychoactive substances act 2016. *Journal of Psychopharmacology, 35*, 1315–1323.

24. Kühnl, R., et al. (2022). Taking the cat-and-mouse game to the next level: Different perspectives on the introduction of the German new psychoactive substances act. *Harm Reduction Journal, 19*, 1–12.

25. Wijayanti, S., Sari, Z. N., Salam, S., & Firdaus, A. A. (2024). Norm clash in lex superior derogate legi inferiori principle's implementation on circular letters and laws. *Reformasi Hukum, 28*, 234–250.

26. Leni, N. M., Aryani, L. N. A., & Westa, I. W. (2021). Mengenal new psychoactive substances (NPS): Sebuah tinjauan pustaka. *Intisari Sains Medis, 12*, 275–284.

27. Bruzelius, E., et al. (2024). Punitive legal responses to prenatal drug use in the United States: A survey of state policies and systematic review of their public health impacts. *International Journal of Drug Policy, 126*.

28. Awuchi, C. G., et al. (2023). New psychoactive substances: Major groups, laboratory testing challenges, public health concerns, and community-based solutions. *Journal of Chemistry, 2023*.

29. COPOLAD II. (2020). *Early warning system on new psychoactive substances and emerging phenomena: Implementation manual*.

30. Van Amsterdam, J., Burgess, N., & Van den Brink, W. (2023). Legal approaches to new psychoactive substances: First empirical findings. *European Addiction Research, 29*, 363–372.

31. Greco, E. (2025). AI methods for new psychoactive substance (NPS) design and analysis. *Analytica, 6*, 17.

32. Neicun, J., Roman-Urrestarazu, A., & Czabanowska, K. (2022). Legal responses to novel psychoactive substances implemented by ten European countries: An analysis from legal epidemiology. *Emerging Trends in Drugs, Addictions, and Health, 2*, 100044.

33. Nur, H., & M. (2024). An overview of drug-related criminal acts as extraordinary crimes in Indonesia. *International Journal of Law, Social Sciences and Humanities, 1*, 28–39.

34. Taniyo, K. F., et al. (2023). Penerapan kebijakan hukum pidana dalam menanggulangi tindak pidana penyalahgunaan narkotika jenis baru. *PALAR (Pakuan Law Review), 09*, 102–114.

35. Handajani, M. S., et al. (2021). Tren penyalahgunaan narkotika di wilayah Jawa Timur tahun 2016–2017. *Jurnal Pharmaceutical Care Anwar Medika, 4*, 58–70.

36. Risano, A. (2021). Asas legalitas tindak pidana penyalahgunaan new psychoactive substances dalam kajian hukum pidana. *Ius Civile: Refleksi Penegakan Hukum dan Keadilan, 5*, 162–172.

37. Hehanussa, D. J., Salamor, Y. B., & Universitas Pattimura. (2023). Penegakan hukum terhadap peredaran narkotika jenis new psychoactive substance di Indonesia. *[Jurnal], 3*, 289–304.

38. Rachmadika, A. D., Zarkasi, & Syamsir. (2024). Kemandirian kekuasaan kehakiman dalam menegakkan negara hukum yang demokratis. *Hangoluan Law Review, 3*, 305–318.

39. European Monitoring Centre for Drugs and Drug Addiction. (2021). *New psychoactive substances in Europe: EU early warning system*.

40. Farhan, A., Annisa, N., Cindy, F., & Lauren, C. (2024). Kebijakan pemberantasan narkotika dalam perspektif perlindungan hak asasi manusia (human rights). *QISTINA: Jurnal Multidisiplin Indonesia, 3*, 762–770.

41. Dahlan, Ahmed, Z., & Saraya, S. (2025). The concept of criminal justice for drug abuse: A legal approach. *Jurnal Hukum Unnisula, 41*, 55–72.