IJCCJ
Indonesian Journal of Crime and Criminal Justice

Vol. 1 No. 1. March-June 2025. pp. 55-88 E-ISSN: 3108-9852 https://doi.org/10.62264/ijccj.v1i1.121

'Novum' in Indonesian Criminal Justice: Problems and Legal Reform

M Zaid [a*], M Musa [a], Bianglala Asmarasari [b]
[a] Faculty of Law, Universitas Islam Riau, Pekanbaru, Indonesia
[b] Faculty of International Studies, Vietnam National University, Vietnam
* corresponding author: m.zaid@law.uir.ac.id

Article Info

Article History:

Received: 05 March 2025
Revised: 15 April 2025
Revised: 28 April 2025
Accepted: 26 May 2025
Available online: 01 June 2025

Keywords:

Novum;
Judicial Review;
Legal Reform;

Abstract

This study examines the rationale for utilizing court decisions as a basis for requesting a case review (PK) in criminal cases in Indonesia. This report also delineates the future regulation of legal remedies for PK in criminal cases in Indonesia. This research presents a normative legal analysis comparing PK provisions in France. The study's findings suggest that District Court Decisions may serve as novum in PK petitions in Indonesia due to the ambiguous definition of novum in Article 263(2) of the Criminal Procedure Code, resulting in multiple interpretations regarding the grounds for filing a PK, thereby enabling judges to incorporate one of these expert interpretations in their rulings. Secondly, the principle of ius curia novit facilitates judges in adopting one of these expert interpretations, permitting the basis for PK through a prior first-instance court judgment. Upon analyzing the rationale for permitting the submission of PK as a District Court Decision, the author juxtaposes this with French Criminal Procedure Law and concludes that the grounds for filing PK should be distinctly and unequivocally delineated in the KUHAP. Both jurisdictions explicitly stipulate in their criminal procedure statutes that an appeal must be predicated on new facts and evidence that, if introduced during the prior trial, could potentially mitigate or nullify the public prosecutor's charges.

1. Introduction

Substance misuse and illegal trade have emerged as global concerns, impacting every region and nation. The Commission on Narcotic Drugs (CND) convened in Vienna on 11-12 March 2009, resulting in the adoption of the Political Declaration and Plan of Action of 2009. This document encompasses a political declaration and an action plan to foster international cooperation within a balanced and comprehensive

framework to tackle the global drug issue.[1]

In Indonesia, the prevalence of drug abuse has escalated to a concerning level. As articulated by Soedjono Dirdjosisworo, narcotics, commonly known as 'drugs,' possess specific attributes. A significant number of cases can be attributed to the influence of narcotics. Regions, once free from the influence of narcotics trafficking, have progressively evolved into hubs for such activities. In a parallel manner, minors below the age of 21, who ought to remain oblivious to these prohibited substances, have recently succumbed to addiction, struggling to liberate themselves from their dependence.[2]

The challenge presented by narcotics warrants earnest consideration and action from every segment of society. These measures are not solely intended for users; they also address the burgeoning narcotics trade in Indonesia, which has started to raise significant apprehensions. The National Narcotics Agency (BNN) has comprehensively analyzed 72 narcotics networks operating within Indonesia. Commissioner General Budi Waseso, the Head of the BNN, made the revelation. Inspector General Arman Depari, the Deputy for Narcotics Eradication at the BNN, articulated that should a single network yield Rp 1 trillion annually from this nefarious enterprise, the cumulative assets of 72 drug networks could amount to Rp 72 trillion each year.[3]

Upon scrutinizing the demographic dimension, Indonesia boasts a population exceeding 200 million, with a notable segment of youth (around 40 percent) and comparatively modest indicators of prosperity or economic advancement. This signifies a substantial opportunity for the illicit trade of narcotics and psychotropic substances, enticing individuals seeking rapid wealth with minimal exertion. Since 1998, evidence suggests that Indonesia has evolved from being merely a transit country to a destination country, and it can even be regarded as a source country for psychotropic substances, indicating a significant shift in its role in the global drug landscape. The issue of illicit trade and narcotics-related crime presents a multifaceted

---

[1] Tim Lindsey and Nicholson Pip, *Drugs Law and Legal Practice in Southeast Asia: Indonesia, Singapore and Vietnam*, First (Melbourne: Bloomsbury Publishing, 2016).

[2] Gideon Lasco, 'Drugs and Drug Wars as Populist Tropes in Asia: Illustrative Examples and Implications for Drug Policy', *International Journal of Drug Policy*, 77 (2020), 102668 <https://doi.org/https://doi.org/10.1016/j.drugpo.2020.102668>.

[3] Alissa Greer and others, 'The Details of Decriminalization: Designing a Non-Criminal Response to the Possession of Drugs for Personal Use', *International Journal of Drug Policy*, 102 (2022), 103605 <https://doi.org/https://doi.org/10.1016/j.drugpo.2022.103605>.

challenge driven by three primary factors contributing to the escalation of illegal narcotics circulation. Firstly, the inadequacy of interdiction capacity leads to heightened risks associated with the proliferation of illegal narcotics. Secondly, the rise in narcotics abuse exacerbates the situation. Lastly, insufficient collaboration among law enforcement agencies, both at the national and international levels, undermines the effectiveness of interdiction efforts.[4]

Moreover, the subsequent inquiry pertains to the methods by which governmental bodies and law enforcement agencies, in collaboration with the National Narcotics Agency (BNN), can effectively eliminate drug traffickers and producers. This inquiry is essential to safeguard the nation from domination by drug cartels, a fate that has befallen certain Latin American countries. Prominent figures in the realm of drug trafficking include Pablo Escobar, the architect, and head of the Medellín Cartel in Colombia, which functioned as a quasi-sovereign entity and was the focus of U.S. law enforcement efforts. Roughly 80% of the narcotics, especially cocaine, present in the United States can be traced back to Medellín.[5]

In light of this, it is accurate to assert that drug-related offenses have evolved into a transnational phenomenon, executed through intricate methods, cutting-edge technology, and bolstered by vast organizational networks. This has resulted in numerous victims, particularly among the youth, posing a significant threat to the well-being of the community, the nation, and the state. Consequently, Law No. 22 of 1997 concerning Narcotics fails to sufficiently address the dynamic circumstances and requirements necessary to effectively combat and eliminate such criminal enterprises. Instead of previous legislation, Law No. 35 of 2009 concerning Narcotics (hereinafter referred to as the Narcotics Law) was promulgated, establishing a framework for regulating narcotics and psychotropic substances.[6]

The overarching elucidation of Law No. 35 of 2009 concerning Narcotics articulates that narcotics are substances or drugs that hold significant utility and are essential for the therapeutic management of specific ailments. Nevertheless, if

---

[4] Muhammad Atif and others, 'Drug Utilization Patterns in the Global Context: A Systematic Review', *Health Policy and Technology*, 6.4 (2017), 457–70 <https://doi.org/https://doi.org/10.1016/j.hlpt.2017.11.001>.

[5] Bennett W Fletcher and others, 'Measuring Collaboration and Integration Activities in Criminal Justice and Substance Abuse Treatment Agencies', *Drug and Alcohol Dependence*, 103 (2009), S54–64 <https://doi.org/https://doi.org/10.1016/j.drugalcdep.2009.01.001>.

[6] Tobias Kammersgaard, 'From Punishment to Help? Continuity and Change in the Norwegian Decriminalization Reform Proposal', *International Journal of Drug Policy*, 113 (2023), 103963 <https://doi.org/https://doi.org/10.1016/j.drugpo.2023.103963>.

employed improperly or in violation of established medical protocols, they can significantly damage individuals or society, especially among the youth. The explanation indicates that narcotics hold a fundamental significance for human existence, especially in medicine. Nonetheless, peril emerges when narcotics are misused via unlawful distribution. Within this framework, what is impermissible is the misuse and unlawful dissemination of narcotics.[7]

The stipulations regarding regulation and penalties for narcotics abuse are articulated within the Narcotics Law, particularly in Article 112(1): 'Without auauthorizationr in contravention of the law, possessing, storing, controlling, or supplying Class I narcotics that are not derived from plants.' Article 114(1) articulates: 'In the absence of authorization or in contravention of the law, engaging in the sale, purchase, receipt, intermediary actions in the sale or purchase, exchange, or transfer of Narcotics of Category I is prohibited.' The least penalty amounts to IDR 800,000,000 (eight hundred million rupiah), while the upper limit of the fine reaches IDR 8,000,000,000,000 (eight billion rupiah). Should an individual found guilty of a narcotics-related offense fail to remit the imposed fine, such a penalty shall be supplanted by a term of imprisonment, as delineated in Article 148. This article articulates: "In instances where the fine mandated by this Act remains unpaid by an individual convicted of a narcotics-related offense or an offense concerning narcotic precursors, the offender shall be subjected to a maximum imprisonment of 2 (two) years as a replacement for the outstanding fine."[8]

According to this formulation, individuals who commit criminal acts often prefer imprisonment over the imposition of fines. Within the framework of the Narcotics Law, individuals who use drugs are characterized as victims of the distribution of narcotics. The escalating proliferation of narcotics has resulted in a growing number of individuals who find themselves ensnared in the complexities of addiction. Consequently, the state or government plays a crucial role in both the prevention and eradication efforts, alongside the extensive rescue and protection initiatives aimed at safeguarding the younger generation who have fallen victim to narcotics. This has consequently resulted in the formation of a specialized agency, the National Narcotics Agency (BNN), whose principal objective is to tackle narcotics-related challenges,

---

[7] Lasco.

[8] Rian Saputra, Muhammad Khalif Ardi, and others, 'Reform Regulation of Novum in Criminal Judges in an Effort to Provide Legal Certainty', *JILS (Journal of Indonesian Legal Studies)*, 6.2 (2021), 437–82 <https://doi.org/10.15294/jils.v6i2.51371>.

encompassing not only prevention and eradication but also the rescue and rehabilitation of individuals who have succumbed to drug abuse or addiction. The government has designated a substantial budget for the establishment of rehabilitation centers. It engages in collaboration with both public and private hospitals to aid in the recovery of individuals affected by drug abuse or addiction.

In the case of individuals established as drug abusers, they must participate in both medical and social rehabilitation programs. Nevertheless, in practical terms, especially within first-instance courts, the application of Article 127 of the Narcotics Law is infrequent. Judges and prosecutors frequently invoke Article 112 of the Narcotics Law, which articulates that: "Any individual who, without authorization or in contravention of the law, possesses, stores, controls, or supplies Narcotics of Category I that are not plants shall face imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years, alongside a fine ranging from at least Rp800,000,000.00 (eight hundred million rupiah) to a maximum of Rp8,000,000,000.00 (eight billion rupiah)." The consistent application of this provision in judicial decisions and public prosecutors' charges in narcotics-related offenses is typically underpinned by compelling justifications. Alongside the satisfaction of the criteria outlined in Article 112 of the Narcotics Law, it is pertinent to note that throughout the trial, the defendant or their legal representative failed to establish that the defendant was a victim of narcotics abuse, as stipulated by Article 127 of the Narcotics Law. Mr. author's perspective, as a judge at the Surakarta District Court, echoes the author's perspective. He articulated that the inclination of judges to convict narcotics defendants under Article 112 of the Narcotics Law arises not only from the fulfillment of the requisite elements outlined in that article but also from the defendant's failure to demonstrate that they are victims of drug abuse necessitating rehabilitation, as stipulated by Article 127 of the Narcotics Law. This is particularly relevant in light of the government's current intensified initiatives to address drug abuse. This is often taken into account by judges when adjudicating drug-related criminal cases.[9]

The aforementioned scenario was similarly observed in the case of defendant Andy Suntoro, who faced trial at the Surakarta District Court under Case No.: 125/Pid.Sus/2017/PN Skt. The court determined that the defendant was guilty and that the evidence presented established, beyond a reasonable doubt, his commission of the criminal act of 'Possessing and Storing Narcotics of Category I.' Consequently,

[9] Hikmawati Puteri, 'Pidana Pengawasan Sebagai Pengganti Pidana Bersyarat Menuju Keadilan Restoratif', *Negara Hukum*, 7.1 (2016), 71–88.

the defendant received a sentence of 4 (four) years and 6 (six) months of imprisonment, along with a monetary penalty of Rp. 800,000,000 (eight hundred million rupiah). It was stipulated that failure to pay the fine would result in an additional month of imprisonment.[10]

Following the passage of a specific period, the individual found guilty, represented by legal counsel, submitted a petition for Review to the Supreme Court (MA), which approved the petition. The Supreme Court subsequently revisited the case and rendered Judgement No. 244 PK/Pid.Sus/2018, which articulates: Firstly, it was affirmed that the individual convicted, Andy Suntoro, had been established as guilty beyond a reasonable doubt of perpetrating the criminal offense of 'Abuse of Narcotics of Category I for Personal Use.' Subsequently, he received a sentence of incarceration lasting 1 (one) year and 6 (six) months.[11]

Nevertheless, the inquiry posed by the author pertains to the remarkable legal recourse of Review, wherein the primary condition that must be satisfied, as outlined in Article 263 of the Criminal Procedure Code (hereinafter referred to as KUHAP), is as follows: Initially, to a court ruling that has reached finality and binding effect, except an acquittal or the dismissal of all charges, the convicted individual or their heirs are entitled to submit a request for Review to the Supreme Court. Secondly, the petition for Review is predicated upon new circumstances that engender a compelling suspicion that these circumstances had been disclosed during the trial. The verdict likely resulted in an acquittal or the dismissal of all charges.[12] The ass, actions made by the prosecution would not have been upheld, or a more lenient criminal sanction would have been imposed in this matter if there existed declarations within various rulings asserting that specific facts have been established, yet the underlying facts or circumstances upon which these assertions were founded are subsequently revealed to be inconsistent; if the ruling reflects an error on the part of the judge or a clear misjudgment. By the principles outlined in paragraph (2), a request for Review may be submitted regarding a court decision that has become final and binding, provided that the decision indicates that an act charged has been established but does not result

[10] Slamet Tri Wahyudi, 'Problematika Penerapan Pidana Mati Dalam Konteks Penegakan Hukum Di Indonesia', *Jurnal Hukum Dan Peradilan*, 1.2 (2012), 207 <https://doi.org/10.25216/jhp.1.2.2012.207-234>.

[11] Sukinta, 'Konsep Dan Praktik Pelaksanaan Amicus Curiae Dalam Sistem Peradilan Pidana Indonesia', *Administrative Law & Governance Journal*., 4.1 (2021), 10.

[12] Lutfil Ansori, 'Reformasi Penegakan Hukum Perspektif Hukum Progresif', *Jurnal Yuridis*, 4.2 (2018), 148 <https://doi.org/10.35586/.v4i2.244>.

in a sentence.[13]

Article 263(2) of the Criminal Procedure Code explicitly articulates that a request for Review must be predicated on new circumstances (novum) and similar grounds. However, in the request for Review submitted by Andy Suntoro via his legal counsel, which the Supreme Court subsequently approved, there was merely a reiteration of the prior District Court judge's decision, devoid of any corroborative evidence. The prior determinations made by the District Court encompass the following cases: Firstly, Case No. 462/Pid.Sus/2017/PN.Skt; Secondly, Case No. 454/Pid.Sus/2017/PN.SKt; Thirdly, Case No. 10/Pid.Sus/2018/PN.Skt; Lastly, Case Decision Number 36/Pid.Sus/2018/PN.Skt.

Nevertheless, one might reference a definition of jurisprudence articulated by Soebekti, which characterizes it as the determinations made by judges or courts that are conclusive and endorsed by the Supreme Court (MA) in its capacity as the court of cassation or the definitive rulings issued by the MA itself. Consequently, as previously outlined, it is inappropriate to regard the initial court decisions as jurisprudence. Nonetheless, the inquiry emerges again regarding the foundational criteria that would compel the judge to endorse the petition for Review in a narcotics case, particularly when new evidence is presented in prior court rulings at the initial level. Furthermore, the approval of the request for Review predicated on the 'novum' of earlier first-instance court rulings is deemed unsuitable. Suppose the objective is to contest the judge's misapplication of the law. In that case, one may invoke the aspect of judicial error in the decision-making process, as stipulated in Article 263(2)(c) of the Criminal Procedure Code.

2. Research Method

This study is a form of legal research that focuses on establishing norms and standards. This research has verified that the suitable and employed methods in this legal research are the statute, case, and conceptual approaches.[14] In this study, researchers employed the

[13] Arman Tjoneng, 'Gugatan Sederhana Sebagai Terobosan Mahkamah Agung Dalam Menyelesaikan Penumpukan Perkara Di Pengadilan Dan Permasalahannya', *Dialogia Iuridica: Jurnal Hukum Bisnis Dan Investasi*, 8.2 (2017), 93 <https://doi.org/10.28932/di.v8i2.726>.

[14] Pujiyono Suwadi and others, 'Legal Comparison of the Use of Telemedicine between Indonesia and the United States', *International Journal of Human Rights in Healthcare*, ahead-of-p.ahead-of-print (2022) <https://doi.org/10.1108/IJHRH-04-2022-0032>.

methodology of document analysis.[15] This study employs legal material analysis procedures utilizing deductive reasoning, as stated by Peter Mahmud Marzuki, who cites his perspective. Philipus M. Hadjon describes the deduction method as a syllogism taught by Aristotle. This method involves presenting general statements, major premises, as legal doctrines.[16] Then, specific statements, called minor premises, are presented as several court decision and mayor premises is Indonesian Criminal Procedure Code, a conclusion or final statement can be derived.

3. Results and Discussion

Court Decision as "Novum" for Review of Narcotics Crimes

Criminal procedure law affords legal entitlement to review to individuals who have been convicted and their heirs. This provision aims to empower those sentenced in a case to submit a petition seeking the annulment of a final and binding decision based on the assertion that such a decision contradicts the actual circumstances of the case. The evolution of legal initiatives concerning Review (PK) in Indonesia is inextricably linked to the historical context of Indonesian Criminal Procedure Law. In a general sense, judicial review's evolution can be divided into three distinct phases: the era preceding 1945, which corresponds to the time before Indonesia attained independence; the interval from 1945 to 1981; and the timeframe extending from 1981 to the present day.[17]

Prior to 1945, the philosophical underpinnings of Indonesian legislation had acknowledged judicial review as a legal institution dating back to the Dutch colonial era. Throughout this era, two entities shared the foundational principles inherent to the judicial review institution: the Herziening institution for criminal proceedings—where 'Herziening' translates to 'revision' or 'change,' making the term 'review' somewhat misleading—and the Request Civiel institution for civil proceedings. Notwithstanding their distinct designations, these two entities are fundamentally engaged in evaluating

[15] Rian Saputra, M Zaid, and others, 'Reconstruction of Chemical Castration Sanctions Implementation Based on the Medical Ethics Code (Comparison with Russia and South Korea)', *Lex Scientia Law Review*, 7.1 (2023), 61–118 <https://doi.org/10.15294/lesrev.v7i1.64143>.

[16] Jamal Wiwoho and others, 'Islamic Crypto Assets and Regulatory Framework: Evidence from Indonesia and Global Approaches', *International Journal of Law and Management*, 66.2 (2024), 155 – 171 <https://doi.org/10.1108/IJLMA-03-2023-0051>.

[17] Novritsar Hasintongan Pakpahan and others, 'Trial Proving in Electronic Criminal Case Trial Based On the Dignified Justice Perspective', *Ius Poenale*, 3.1 (2022), 1–12 <https://doi.org/10.25041/ip.v3i1.2452>.

judicial determinations.[18]

The Herziening institution, rooted in Dutch procedural law, found its application in Indonesia, formerly known as the Dutch East Indies, as a result of the principle of concordance, which entails the application of the laws of the colonizing nation to its colonies. The Herziening institution serves as a legal framework that governs the processes involved in examining a court ruling that has reached a definitive and enforceable status. Provisions concerning the Herziening are delineated in the Reglement op de Strafvordering (RSv), Stbl 1847 No. 40 jo 57 Title 18 Articles 356 to 360, applicable to Europeans or individuals regarded as equivalent.[19]

The indigenous population has not experienced the application of the institution of Herziening, as the relevant provisions are those outlined in the Herziene Inlands Reglement (HIR), Stbl 1926 No. 559, as amended by No. 496, for the territories of Java and Madura, and the Rechtsreglement voor de Buitengewesten (RBg), Stbl 1927 No. 227, for areas beyond Java and Madura. Neither the HIR nor the RBg exerts regulatory authority over the Herziening institution, as both sets of regulations are confined to governing the procedural frameworks of the land road courts (district courts designated for the Bumiputra group) and other subordinate Bumiputra courts. Consequently, while the Herziening institution has been established and utilized in Indonesia since the era of Dutch colonialism, its implementation has not extended to all judicial entities within the country, as it is limited to those serving the European class, specifically the Raad van Justitie and the Hooggerechtshof.[20]

Following the conclusion of the Dutch colonial era and the subsequent Japanese occupation, Indonesian criminal procedure law experienced minimal alterations, with the notable exception being the dissolution of the Raad van Justitie, which served as the judicial authority for Europeans. Article 3 of the transitional provisions of Law (Osamu Serei) No. 1 of 1942, promulgated by the Japanese government, delineated that the administrative, legal, and legislative frameworks of the preceding government would persist in operation, provided they did not contravene the regulations established by the military government. According to Article 3 of the transitional provisions of Law No. 1 of

---

[18] Claudia Permata Dinda, Usman Usman, and Tri Imam Munandar, 'Praperadilan Terhadap Penetapan Status Tersangka Tindak Pidana Korupsi Oleh Komisi Pemberantasan Korupsi', *PAMPAS: Journal of Criminal Law*, 1.2 (2021), 82–103 <https://doi.org/10.22437/pampas.v1i2.9568>.

[19] Warih Anjari, 'Kedudukan Asas Legalitas Pasca Putusan Mahkamah Konstitusi Nomor 003/PUU-IV/2006 Dan 025/PUU-XIV/2016', *Jurnal Konstitusi*, 16.1 (2019), 1 <https://doi.org/10.31078/jk1611>.

[20] Tatu Aditya, 'Reforming Criminal Impacts in the Law of State Finance : Legal Certainty for State-Owned Enterprise', *Indonesian Law Journal*, 15.2 (2022), 125–40 <https://doi.org/10.33331/ilj.v15i2.97>.

1942, the HIR, RBg, and Landgerechtsreglement—serving as procedural law for all categories of residents in minor cases, as established by Sbld 1914 No. 317 and amended by Sbld 1917 No. 323—are to be upheld as the legal framework governing legal procedures. This remains applicable even without specific legal provisions within the legislation addressing the review of final court decisions for the Indigenous population.[21]

Secondly, the interval spanning from 1945 to 1981, after Indonesia declared independence, witnessed the persistent enforcement of the stipulations outlined in the HIR, RBg, and various other regulations from the colonial era. This continuity was upheld by Article II of the Transitional Provisions of the 1945 Constitution, which asserts that 'All state institutions and regulations that exist shall remain in force until new ones are established by this Constitution.' Article 1 of Regulation No. 2 of 1945 further substantiated Article II of the Transitional Provisions. The stipulations outlined in Article II of the Transitional Provisions have not yielded any advancements in the legal endeavors on judicial review, as they have yet to be integrated into Indonesian law.[22]

In 1951, substantial modifications to the criminal procedure law were enacted to discard the remnants of the provisions of the Dutch colonial era. During that period, Law No. 1 (drt) of 1951 was in effect. Concerning the amendments to criminal procedure law as outlined in Law No. 1 (drt) of 1951, Andi Hamzah remarked, 'this legislation signifies a unification of the previously varied criminal procedure law and court structure.' The legal remedy of judicial review (PK) started to acquire a constitutional foundation within Indonesian procedural law in 1964. Article 15 of Law No. 19 of 1964 concerning the Fundamental Provisions of Judicial Authority articulates that: 'A request for review may be submitted against a court decision that has reached finality and binding effect solely under circumstances or matters as prescribed by law.'[23]

Furthermore, the acknowledgment of the Review Board's existence is articulated in Article 31 of Law Number 13 of 1965, which pertains to the Courts within the General Court System and the Supreme Court. This article stipulates: 'Against a final and binding decision of a District Court, an appeal for review may be filed with the Supreme Court by the provisions of the law.' This provision encompasses two significant interpretations.

---

[21] Eddy Rifai, 'An Analysis of the Death Penalty in Indonesia Criminal Law', *Sriwijaya Law Review*, 1.2 (2017), 190–99 <https://doi.org/10.28946/slrev.Vol1.Iss2.44.pp191-200>.

[22] Rachmawaty Rachmawaty, Matthew Marcellinno Gunawan, and Novi Nurviani, 'Judicial Perspectives on the Equitable Resolution of Anti-SLAPP Cases: Insights from Indonesia', *Journal of Law, Environmental and Justice*, 2.1 (2024), 18–41 <https://doi.org/10.62264/jlej.v2i1.88>.

[23] Muhammad Fatahillah Akbar, 'The Urgency of Law Reforms on Economic Crimes in Indonesia', *Cogent Social Sciences*, 9.1 (2023) <https://doi.org/10.1080/23311886.2023.2175487>.

Initially, Indonesian procedural law acknowledges the availability of legal recourse against definitive and conclusive court rulings, referred to as PK, which was previously termed Herziening in criminal matters and Request Civiel in civil matters. Furthermore, the regulations about the execution of PK will be delineated in a distinct legislative framework, given that the procedural laws in effect at that time, specifically HIR and RBg, lacked provisions for examining a definitive and binding ruling.[24]

Despite the formal legal recognition of the PK institution, its practical application remained unfeasible due to the absence of necessary implementing provisions. In response to the pressing demand for justice, the year 1969 saw Prof. R. Subekti, S.H., who was then serving as the Chief Justice of the Supreme Court, implement the Supreme Court Procedural Law on Review. This was formalized in the Supreme Court Regulation (Perma) of the Republic of Indonesia Number 1 of 1969, which comprises eight articles. The stipulations regarding PK in this Perma fail to satisfy the criteria outlined in Article 31 of Law No. 13 of 1965 concerning Courts within the General Judicial System and the Supreme Court, which asserts that the execution of PK must be governed by legislation. Perma No. 1 of 1969 was annulled by Perma No. 1 of 1971, two years later. Since then, a notable absence of legal oversight has emerged regarding examining court rulings that have reached a definitive and conclusive status.[25]

The establishment of the Review Institution, which treats civil and criminal cases without distinction, was further solidified and acknowledged through the enactment of Law No. 14 of 1970 concerning the Basic Provisions of Judicial Power. The provisions outlined in Article 21 of the specified legislation articulate that, under certain conditions as prescribed by law, the Supreme Court may reconsider a definitive and enforceable judicial ruling in civil and criminal matters at the behest of the involved parties.

A causal relationship exists between Perma No. 1 of 1971 and Article 21 of Law No. 14 of 1970. Article 21 of Law No. 14 of 1970 serves as the basis for issuing Perma No. 1 of 1971, which subsequently revoked Perma No. 1 of 1969. The legislator designed the stipulations outlined in Article 21 to supplant the framework established by Regulation No. 1 of 1969, which governed the execution of the Review Proceedings. Almost five years after the release of Perma No. 1 of 1971, the Supreme Court promulgated Perma No. 1 of 1976, which annulled Perma No. 1 of 1971 along with the Supreme Court Regulations and

---

[24] Insan Firdaus, 'Harmonisasi Undang-Undang Narkotika Dengan Undang-Undang Pemasyarakatan Terkait Rehabilitasi Narkotika Bagi Warga Binaan Pemasyarakatan', *Jurnal Penelitian Hukum De Jure*, 21.1 (2021), 141 <https://doi.org/10.30641/dejure.2021.V21.141-160>.

[25] Wulan E. Igir, Olga A. Pangkerego, and Anna S. Wahongan, 'Pembinaan Terhadap Anak Pelaku Tindak Pidana Narkotika Dalam Rangka Perlindungan Anak', *Lex Crimen*, 9.3 (2020), 104–14.

prior circular letters on legal remedies for PK. This revocation has once more engendered a legal void in the execution of PK.

By the conclusion of 1980, an incident transpired that compelled both legal scholars and law enforcement authorities to acknowledge the indispensable role of the Review Institution within Indonesian society. The incident referred to as the 'Sengkon and Karta case' profoundly unsettled the very underpinnings of the legal framework in Indonesia. The verdict rendered against Sengkon and Karta for premeditated murder was scrutinized, resulting in their acquittal. The Supreme Court promulgated Perma No. 1 of 1980 in response to the matter at hand. By this regulation, Sengkon and Karta successfully submitted a PK appeal. One year after the Sengkon and Karta case, Law No. 8 of 1981 concerning Criminal Procedure (KUHAP) was established, with Articles 263 to 269 delineating the stipulations about PK appeals.[26]

Third, the timeframe from 1981 to the present marks a significant evolution, wherein the establishment of legal certainty within the KUHAP has facilitated the ongoing development of legal remedies for PK. A notable development pertains to the entitlement of the Public Prosecutor to initiate a legal remedy for PK. The KUHAP, serving as the legal foundation for PK, does not delineate the authority of the Prosecutor to initiate a PK. Nevertheless, Article 23(1) of Law No. 4 of 2004 concerning Judicial Power allows the Prosecutor to submit a PK. Parties affected by court decisions that have reached a final and binding legal status may seek a review from the Supreme Court, provided specific matters or circumstances are outlined in the law.[27]

The stipulations outlined in Article 23(1) of Law No. 4 of 2004 effectively provide the foundation for judges to approve PK requests submitted by prosecutors. This is documented in the Supreme Court's PK decision No. 109/PK/PID/2007 about the Pollycarpus case. Both the Prosecutor and third parties, including victims, possess the capacity to submit a PK appeal. In this instance, the individual affected is regarded as a stakeholder with a vested interest, as delineated in Article 23 of Law No. 4 of 2004 concerning Judicial Power. Examining the historical context of legal remedy regulations within Indonesian legislation reveals that the primary objective of the Review Institution is to facilitate the reassessment or reversal of final and binding decisions, thereby allowing for the potential release or full acquittal of the convicted individual. The concept of 'Peninjauan Kembali' (PK), formerly referred to as 'Herziening,' presents a challenge in

[26] M. Lutfi Chakim, 'Mewujudkan Keadilan Melalui Upaya Hukum Peninjauan Kembali Pasca Putusan Mahkamah Konstitusi', *Jurnal Konstitusi*, 12.2 (2016), 328 <https://doi.org/10.31078/jk1227>.

[27] Rasdi Rasdi and others, 'Reformulation of the Criminal Justice System for Children in Conflict Based on Pancasila Justice', *Lex Scientia Law Review*, 6.2 (2022), 479–518 <https://doi.org/10.15294/lesrev.v6i2.58320>.

terms of definition, as the Criminal Procedure Code (KUHAP) lacks a formal explanation for this term. Consequently, various legal scholars have endeavored to articulate a definition for PK.

As articulated by Soenarto Soerodibroto, as referenced by Parman Soeparman: Herziening refers to the examination of criminal rulings that have achieved final legal authority and encompass a sentence, which does not apply to decisions in which the defendant has been acquitted (vrijgrespoken). Conversely, Andi Hamzah and Irdan Dahlan, as referenced by Parman Soeparman, articulate the concept of PK as follows: It is the entitlement of a convicted individual to seek the rectification of a judicial ruling that has attained finality stemming from an error or oversight by the judge in delivering the verdict. Upon examining the two definitions provided, it becomes evident that the interpretation articulated by Andi Hamzah prioritizes the individual eligible to submit a PK, specifically the individual who has been convicted. Meanwhile, Soenarto Soerodibroto underscores the significance of the decision that may be open to a PK. The Criminal Procedure Code delineates the stipulations for judicial review within Articles 263 to 269. The articles delineate the stipulations concerning the decisions eligible for PK, the justifications for initiating a PK, the methodologies for submitting a PK, the foundational principles that regulate PK, and the various formats of decisions within the PK framework.[28]

Article 263(1) of the Criminal Procedure Code articulates, 'In opposition to a court decision that has attained finality and binding effect, except acquittal or the dismissal of all legal claims...' The provisions outlined in Article 263(1) of the Criminal Procedure Code can be categorized into two distinct components. The initial aspect pertains to the prerequisites for submitting a PK, specifically a judicial ruling that has attained finality and binding authority. A judicial ruling in this context encompasses determinations made by all levels of the judiciary, beginning with the District Court, proceeding to the High Court, and culminating at the Supreme Court. The decisions rendered by these judicial institutions may be open to review through PK and are contingent upon fulfilling specific criteria, notably the attainment of final and binding legal force. Until such a condition is satisfied, the invocation of the PK legal remedy remains impermissible.[29]

The initial component of Article 263(1) of the Criminal Procedure Code may also imply that the PK legal remedy is accessible solely after the ordinary legal remedies have been

[28] Mas Putra Zenno Januarsyah, 'The Implementation of Ultimum Remedium Principle in Criminal Case of Corruption', *Jurnal Yudisial*, 10.3 (2017), 257–76 <https://doi.org/10.29123/jy.v10i3.266>.
[29] Emile van der Does de Willebois and Jean-Pierre Brun, 'Using Civil Remedies in Corruption and Asset Recovery Cases', *Case Western Reserve Journal of International Law*, 45.3 (2013), 615.

fully utilized. While ordinary legal remedies remain an option, they must be prioritized and pursued initially. Consequently, the PK legal remedy represents a phase in the legal proceedings after utilizing standard legal remedies. The second element of Article 263(1) of the Criminal Procedure Code delineates the exceptions on decisions eligible for PK legal remedies. The provision indicates that acquittal and dismissal of all charges are not subject to legal remedies under PK. M. Yahya Harahap posits that this provision is rational, as he believes the PK legal remedy's objective is to allow the convicted individual to advocate for their interests, thereby allowing them to rectify any inaccuracies in the sentence rendered against them. Consequently, should they have been exonerated from the allegations or liberated from all legal encumbrances, there exists no further justification or pressing need to reevaluate a ruling that is advantageous to them.[30]

The Criminal Procedure Code serves as a remarkable legal remedy, delineating specific constraints on the grounds for submitting a PK. The stipulations are articulated in Article 263(2) and (3) of the Criminal Procedure Code. Mangasa Sidabutar categorizes the grounds for requesting a PK into two distinct classifications, determined by the timing of the emergence of the relevant issues, specifically, Grounded in issues that have arisen after the conclusion of the court or tribunal's review (following the issuance of its decision), specifically new circumstances or novum. This stipulation is delineated in Article 263(2)(a) of the KUHAP. Grounded in issues that were either present or had emerged during the proceedings. Consequently, prior to the court or tribunal issuing its ruling, the information in question was only revealed after the decision, as stipulated in Article 263(2)(b) and (c) and Article 263(3) of the KUHAP. The primary foundation for seeking a PK under the KUHAP is the presence of new circumstances or novum.

The recent conditions that may constitute a foundation for a request for a PK possess the characteristics and essence of 'eliciting a robust suspicion.' The subsequent rationale pertains to the presence of inconsistencies across different decisions. This rationale is derived from Article 356(1)(1) of the RSv and is integrated into Article 263(2)(b) of the KUHAP. The three fundamental components present are: an assertion that a particular matter has been established; subsequently, this assertion regarding the proof serves as the foundation and rationale for the decision in a case; however, in a different case, the matter asserted as established presents contradictions between one decision and another. About the inconsistency observed in the decisions, M. Yahya Harahap asserts that The inconsistency ought to be articulated clearly and explicitly within the pertinent decisions

[30] Vincentius Patria Setyawan and Djuyamto, 'Kajian Terhadap Kewenangan Penetapan Tersangka Oleh Hakim Dalam Perkara Illegal Logging (Analisis Putusan No. 145/Pid.B/2014/PN.Dpu)', *Justisi*, 10.1 (2024), 108–19 <https://doi.org/10.33506/jurnaljustisi.v10i1.2657>.

rather than being asserted without delineating the specific nature of the contradiction.

In his book, Hadari Djenawi Tahir posits that the foundation for the request for review lies in a conflict among the grounds of various court decisions, despite the legal substantiation of all circumstances (conflict van rechtspraak). Therefore, the discord inherent in the various decisions under examination must be genuinely substantive, grounded in facts or circumstances that have been legally substantiated. According to Article 263 paragraph (2) sub c of the Criminal Procedure Code, a petition for judicial review may be submitted when a judicial error or a manifest mistake exists in the decision under consideration for review.

The foundation for initiating a judicial review has sparked considerable discourse throughout the development of the Criminal Procedure Bill. The RSv lacks provisions indicating that judicial and manifest errors are grounds for initiating a Herziening. This contrasts with Perma No. 1 of 1969, which encompasses judicial and manifest errors as justifications for submitting a PK. In 1980, the Supreme Court was regressing to the RSv era with the issuance of Perma No. 1 of 1980, as this regulation omitted judicial error or manifest mistakes as valid grounds for submitting a PK appeal.

The Supreme Court's regressive reasoning elicited considerable responses from legal scholars. The rationale was that the Supreme Court, at that juncture, was reluctant to concede the potential for judges to err or commit evident misjudgments in their rulings. Judges were perceived as paragons of virtue, devoid of imperfections, despite the reality that they were merely ordinary individuals susceptible to errors. The submission of a PK may also be predicated on the conditions outlined in Article 263(3) of the Criminal Procedure Code, specifically when the ruling determines that the alleged act has been substantiated yet is not accompanied by a sentence. Parman Soeparman connects this rationale to the necessity of empowering the Attorney General with the authority to submit a PK request. He posits that a convicted individual without a sentence will be cautious when seeking a PK.[31]

Nonetheless, the inquiry pertains to the admissibility of the prior court ruling as new evidence in a review request, akin to the circumstances in Review Decision Number 885/TU/2019/244 PK/PID.SUS/2018, where the judge acknowledged and approved the review request based on the novum presented to the court, which consisted of a prior District Court decision. The Review Decision and the Review Memorandum presented by

[31] Dian Latifiani, 'Human Attitude And Technology : Analyzing A Legal Culture On Electronic Court System In Indonesia (Case Of Religious Court)', *Jils (Journal of Indonesian Legal Studies) Volume*, 6.1 (2021), 157–84 <https://doi.org/doi.org/10.15294/jils.v6i1.44450>.

the convicted individual via legal representation illustrate that the petitioner has introduced new circumstances that evoke considerable suspicion (novum). Had these been disclosed during the trial, they would have warranted the application of a more lenient criminal provision in this matter. The innovation comprises reproductions of judicial rulings about narcotics-related offenses, encompassing Judgement No. 462/Pid.Sus/2017/PN.Skt; Judgement No. 454/Pid.Sus/2017/PN.Skt; Judgement No. 10/Pid.Sus/2018/PN.Skt; Judgement No. 36/Pid.Sus/2018/PN.Skt.

In addressing this inquiry, the author undertook a comprehensive review of existing literature on the definition of novum and its defining characteristics. The term novum (singular) or novi (plural), derived from Latin, signifies something new or a new fact encompassing a new legal situation. In Latin, the term novum encompasses the phrase noviter perventa, signifying 'newly discovered facts that are typically permitted to be introduced in a case even after the pleadings have concluded.' (The author provides a free translation: 'recently uncovered information, which is typically permitted to be presented in a case even after the pleadings have been finalized or concluded').[32]

Article 263(2) of Law No. 8 of 1981 on Criminal Procedure Law (KUHAP) defines the term 'novum' as 'new circumstances,' which serves as one of the bases for submitting a Review (PK). The concept of new circumstances, or novum, as a foundation for submitting a PK, is not clearly articulated within the KUHAP. Instead, it delineates the constraints under which new circumstances qualify as novum. Specifically, it states that if a new circumstance emerges that engenders a strong suspicion that, had it been known during the trial, the outcome would have resulted in an acquittal or the dismissal of all legal charges or that the public prosecutor's charges would not have been upheld, or that a more lenient criminal provision would have applied to the case, then it may be considered as such.[33]

One can deduce that a new circumstance or novum serving as the foundation for submitting a PK must fulfill specific criteria: it possesses the capacity to alter the judge's ruling. It is recognized after the conclusion of the trial proceedings. Provisions concerning novum as the foundation for submitting a PK request in colonial law are delineated in Article 457 of the RSv. In Indonesian law, before the implementation of the KUHAP, the

[32] Paolo Ricci and Floriana Fusco, 'Social Reporting in the Italian Justice System: Milan Court Experience', *Public Integrity*, 18.3 (2016), 254 – 268 <https://doi.org/10.1080/10999922.2016.1139524>.

[33] R. Tony Prayogo, 'Penerapan Asas Kepastian Hukum Dalam Peraturan Mahkamah Agung Nomor 1 Tahun 2011 Tentang Hak Uji Materiil Dan Dalam Pedoman Beracara Dalam Pengujian Undang-Undang (The Implementation Of Legal Certainty Principle In Supreme Court Regulation Number 1 Of 20', *Jurnal Legislasi Indonesia*, 13.2 (2016), 191–201.

Explanation of Article 15 of Law No. 19 of 1964 concerning the Basic Provisions of Judicial Power dealt with the concept of novum, which was termed 'nova.' The term 'nova' is synonymous with what is presently termed 'novum,' specifically denoting 'new facts or circumstances that were not evident or did not garner attention during the prior trial.'

Near the development of the KUHAP and Law No. 19 of 1964, Hadari Djenawi Tahir articulates the concept of novum as follows: A new matter that emerges after a court decision attaining final and binding legal force, which had not been previously addressed or presented in court. Novum represents an element the presiding judge did not previously recognize in the case. Furthermore, new circumstances, whether considered independently or in conjunction with prior evidence, starkly contrast the judge's ruling. This discrepancy fosters a compelling presumption that had these circumstances been disclosed during the trial, the court's verdict would likely have diverged from its earlier determination.[34]

Hadari Djenawi Tahir's definition of novum extends beyond mere new evidence; it encompasses a broader concept, referring to a new matter recognized or emerging after a court decision attaining finality and binding effect. Hadari Djenawi Tahir further underscores that the term "new" should be contextualized within the circumstances deliberated at the time and throughout the trial proceedings, during which the decision had yet to attain finality and binding authority. Before the final and binding decision, the judge presiding over the case is regarded as being uninformed of any circumstances beyond those presented during the trial. Consequently, it is incumbent upon the interested parties to ensure that relevant matters are brought forth during the proceedings. The concept of 'known' as articulated in Article 263(2)(a) of the Criminal Procedure Code signifies that it has not been deliberated during the trial, as either party did not bring it forth.[35]

According to the stipulations outlined in Article 263(2)(a) of the Criminal Procedure Code, the concept of novum as a foundation for initiating a review can be categorized into two distinct discussions. These pertain to the breadth of novum concerning the notion of "new circumstances" and the robustness or caliber of novum about the aspect of "giving rise to a strong suspicion." Article 263(2)(a) of the Criminal Procedure Code distinctly employs the term 'novum' to denote a new circumstance, thus expanding the interpretation of novum beyond the confines of merely newly discovered evidence. In

[34] Nurjihad Nurjihad and Ariyanto Ariyanto, 'Electronic Trial At The Supreme Court: Needs, Challenges And Arrangement', *Jurnal Jurisprudence*, 11.2 (2022), 170–86 <https://doi.org/10.23917/jurisprudence.v11i2.16348>.

[35] Saputra, Ardi, and others.

various public discourses, there frequently exists a misunderstanding of the term 'novum,' which is erroneously perceived as 'new evidence.' New evidence may be termed novum; however, novum should not be construed or interpreted as merely new evidence, as it encompasses a broader significance, specifically that of a new circumstance. A novel situation that does not conform to the definition of evidence outlined in criminal procedure law yet carries legal implications for the judge's ruling is also encompassed within the concept of novum as a foundation for submitting a PK.[36]

In the context of legal discourse, Novum refers to a collection of newly discovered pieces of evidence as established by legal standards. The criminal procedure law in Indonesia delineates two categories of evidence: evidence and material evidence. The Criminal Procedure Code (KUHAP), functioning as a general law (lex generalis), categorizes evidence into five distinct types: witness testimony, expert testimony, documents, indications, and defendant testimony. Beyond the five categories of evidence previously discussed, additional forms of evidence are governed by legal statutes distinct from the KUHAP. For instance, Law No. 25 of 2003 concerning Money Laundering acknowledges that information and documents are valid evidence.

In contrast to evidence, the stipulations concerning physical evidence are not explicitly articulated within the Criminal Procedure Code, leading to diverse doctrines delineating physical evidence. In summary, Martiman Prodjohamidjojo articulates that physical evidence, or corpus delicti, manifests criminal activity. In contrast to Martiman Prodjohamidjojo, legal scholars like Ansori Sabuan, Syarifuddin Petanasse, and Ruben Achmad articulate a more precise definition of evidence, characterizing it as an item utilized by the defendant in the commission of a crime or as a consequence of a crime, which is subsequently seized by investigators for use in court proceedings. In the meantime, Sudarsono posits that 'evidence constitutes an object or item employed to persuade the judge of the defendant's culpability in a criminal case presented against them.' Consequently, one may assert that evidence encompasses all that pertains to a criminal act and comprises elements of substantiation.

Alongside their interpretations, legal scholars also cite the stipulations of Article 39(1) of the Criminal Procedure Code, which governs the regulations about objects subject to seizure, as a framework for understanding the definition of evidence within the context of the Criminal Procedure Code. Article 183 of the Criminal Procedure Code delineates that

[36] Razananda Skandiva and Beniharmoni Harefa, 'Urgensi Penerapan Foreign Bribery Dalam Konvensi Antikorupsi Di Indonesia', *Integritas : Jurnal Antikorupsi*, 7.2 (2022), 245–62 <https://doi.org/10.32697/integritas.v7i2.826>.

evidence that may serve as a foundation for a judge's verdict is classified as evidence. In contrast, evidence lacking probative value merely bolsters the primary evidence. When administering a criminal sentence, the judge is constrained by the requisite standard of proof, which necessitates the presence of a minimum of two credible pieces of evidence. Considering these two pieces of evidence, the judge must reach a firm conviction regarding the defendant's guilt of the criminal act under scrutiny.

According to Article 183 of the Criminal Procedure Code, the judge is obligated to adhere to the minimum standards of proof when determining a criminal sentence, particularly when an appeal for review is predicated on the emergence of new evidence, as articulated by the panel of judges in the Supreme Court ruling No. 109/PK/Pid/2007 concerning the former defendant Pollycarpus. The panel of judges, in its deliberation, articulated: 'This constitutes a valid piece of evidence, as the statement aligns with Articles 185 and 186 of the Criminal Procedure Code, representing a new circumstance as delineated in Article 263(2)(a) of the Criminal Procedure Code, which may contribute materially to the formation of circumstantial evidence.'

While significant, the introduction of new evidence from the defendant cannot exist in isolation; it necessitates a subsequent or independent phase of verification. This scenario revolves around the case of Sengkon and Karta, wherein a definitive and conclusive ruling established their guilt in the crime of murder. Subsequently, Gunel confessed to being the actual perpetrator of the act. Gonel's assertion was not initially regarded as a novel contribution; instead, an analysis was undertaken regarding Gonel's statement. After the judicial proceedings, it was concluded that Gonel was, in fact, culpable of the homicide for which Sengkon and Karta had been found guilty. Consequently, the pivotal element is the court's ruling rather than the assertion or admission made by the new defendant, specifically Gonel.[37]

Consequently, one may deduce that the testimony provided by the defendant does not qualify as new evidence, as it requires substantiation. It is not the defendant's account representing new evidence; the court's ruling emerges from the newly presented testimony. Should new material evidence emerge, such evidence must be transformed into a form with probative value. From the aforementioned discussion, it follows that Article 183 of the Criminal Procedure Code concerning the essential criteria for evidence is only applicable to judges when the appealing party is not the convicted individual or their heirs

[37] M. Alvi Syahrin, 'The Immigration Crime and Policy: Implementation of PPNS Authorities on Investigation', *Journal of Indonesian Legal Studies*, 3.2 (2018), 175–94 <https://doi.org/10.15294/jils.v3i02.27512>.

acting on their behalf but instead, a third party with vested interests, exemplified by the Public Prosecutor in this instance.

An application for judicial review based on the presence of novum that does not constitute new evidence or does not align with the categories of evidence outlined in the Criminal Procedure Code but rather represents a new fact or circumstance will encounter more subjective limitations, given the absence of specific laws or regulations addressing this matter. The degree to which a specific circumstance or fact aligns with the classification of novum is contingent upon the viewpoint of each judge acting as the decision-maker, as evidenced in various legal precedents.[38] Komariah Emong Sapardjaja, a supreme court judge specializing in criminal matters, articulated that: "Novum encompasses a vast array of meanings and implications, as it may refer to any fact or circumstance that holds decisive significance." The fundamental essence of a novum lies in the presence of the lex tempus principle.

The lex tempus principle, as articulated by Komariah Emong Sapardjaja, pertains to introducing new elements to the circumstances prevailing during the ongoing trial. A novel situation does not qualify as a true innovation if it remains within the established legal framework concerning the Law's applicability as the foundation for an individual's punishment.[39] This pertains to the Supreme Court's Review Decision issued on August 30, 2007, concerning the individuals convicted: Amrozi, Imam Samudera, and Ali Ghufron. Amrozi and his associates (dkk) were found guilty under Law No. 16 of 2003, which pertains to the Enactment of Government Regulation in Lieu of Law (Perpu) No. 2 of 2002, addressing the Eradication of Terrorism-Related Criminal Acts, about the bombings that occurred in Bali. On October 12, 2002, a legal appeal (PK) was submitted, citing a newly emerged piece of evidence: Constitutional Court (MK) Decision No. 13/PUU-1/2003, invalidating Law No. 16 of 2003. The Constitutional Court annulled the validity of Law No. 16 of 2003 due to its retroactive implications, which conflicted with Article 28I(1) of the 1945 Constitution.

The Supreme Court judges determined that the new element presented by Amrozi, namely the decision of the Constitutional Court, did not invalidate the rulings of the District Court and High Court; therefore, the petition for judicial review was denied. The

---

[38] Syahril Syahril, Mohd Din, and Mujibussalim Mujibussalim, 'Penerapan Undang-Undang Pemberantasan Tindak Pidana Korupsi Terhadap Kejahatan Di Bidang Perbankan', *Syiah Kuala Law Journal*, 1.3 (2017), 16–28 <https://doi.org/10.24815/sklj.v1i3.9635>.

[39] Risanti Suci Pratiwi, 'Legalitas Rangkap Jabatan Direksi Dan Dewan Komisaris Pada Badan Usaha Milik Negara Yang Berbentuk Perseroan Terbatas', *Jurnal Lex Renaissance*, 4.2 (2019), 266–84 <https://doi.org/10.20885/jlr.vol4.iss2.art4>.

rationale provided indicated that the decision of the Constitutional Court was related to the framework of the Law and assertions concerning the principle of retroactivity, prompting the Supreme Court to determine that the Constitutional Court's ruling did not qualify as novum as delineated in Article 263(2)(a) of the Criminal Procedure Code. The ruling of the Constitutional Court was delivered after the verdict of the first-instance court, thus precluding any immediate characterization of the court's application of the Law as erroneous. This determination aligns with the perspective of Komariah Emong Sapardjaja, who articulated that the ruling of the Constitutional Court cannot be regarded as novum, as it is imperative to consider the principle of lex tempus. When the judge delivered the verdict, the applicable Law was utilized immediately, ensuring that if the Constitutional Court later deemed the Law invalid, it would not retroactively alter the past circumstances. The modification would exclusively pertain to forthcoming cases.

Contrary to the views expressed by the Supreme Court judges, T. Nasrullah contends that the decision of the Constitutional Court falls within the parameters of novum as delineated in Article 263(2)(a) of the Criminal Procedure Code. T. Nasrullah posits that any matter in a novel circumstance may be classified as novum. Consequently, alterations in the Law or legislation may be regarded as novum; nonetheless, the judge's ruling on the appeal does not absolve the defendant of the charges, given that the defendant was convicted under a law that remained in effect at that time, thereby rendering the conviction valid. Upon the repeal of a law, an individual who has been convicted and is currently serving their sentence is no longer justified in remaining incarcerated, even though the legal framework underpinning their conviction has been rendered obsolete (decriminalization). It is important to note that an individual convicted is not permitted to seek rehabilitation for the already completed sentence. Should a law be repealed while an individual has already fulfilled their sentence, a petition for reconsideration based on decriminalization cannot be submitted.

Consequently, a novel approach regarding the invalidity of a law may only be pursued to mitigate a sentence, ensuring that under the authority of a law deemed invalid, the individual in question is no longer required to fulfill their sentence. As articulated by Van Bemmelen, as referenced by Soedirjo, alterations in the legal framework, specifically modifications in statutes that result in an act ceasing to be classified as a criminal offense, do not generate novum.

A novel concept with expansive dimensions and ambiguous limits may also manifest as a regulation. The Supreme Court's decision in Case No. 71/PK/PID/2005 has facilitated this possibility, with Margelap as the petitioner challenging the Regional Regulation (Perda) of the Pamekasan Madura Regency Government No. 9 of 2001, which

pertains to the Procedures for the Nomination, Election, Inauguration, and Dismissal of Village Heads. While the novum represented by the Perda was not recognized as fulfilling the criteria outlined in Article 263(2) of the Criminal Procedure Code, the panel of judges remarked in the preliminary section of their deliberations, 'even if the Perda No. 9 of 2001 must be taken into account.' Furthermore, the rationale for rejecting the Perda as a novum was its lack of relevance to the criminal act perpetrated by the convicted Margelap regarding the quality or strength of the novum rather than any assertion that the Perda did not qualify as a novum.

Various factors warrant careful consideration when the novum pertains to a legal regulation. Article 7(1) of Law No. 10 of 2004, as amended by Law No. 12 of 2011 and Law No. 14 of 2019 concerning the Formation of Legal Regulations, delineates the categories and hierarchy of legal regulations in Indonesia. This framework comprises the 1945 Constitution (UUD 1945), Laws or Government Regulations instead of Law (Perpu), Government Regulations (PP), Presidential Regulations, and Regional Regulations. As established legal frameworks, the 1945 Constitution and Laws or Perpu do not fall within the parameters of novum. The 1945 Constitution serves as the foundational legal framework of the State, thereby not creating a novel circumstance, and consequently, the Supreme Court does not possess the authority to adjudicate cases arising under the 1945 Constitution. Laws or Government Regulations instead of Law are similarly excluded from the scope of novum, as the principle of Law dictates that every individual is presumed to be aware of the Law. Consequently, it is more fitting to ground the appeal on judicial error or mistake in the decision-making process rather than on the emergence of a new circumstance, should the appellant seek to invoke a law or Government Regulation instead of Law as novum in the appeal.

The stipulations align with the perspective of the Dutch Supreme Court (Hoge Raad) as articulated in its ruling dated June 24, 1901, W.7629, which asserts that a novum does not encompass a provision or regulation of the general government that is universally applicable, the existence of which remains unknown to the court. Novum encompasses regulations established by laws or governmental directives, including Government Regulations (PP), Presidential Regulations, Local Regulations (Perda), and other specific, definitive, and conclusive decisions, such as judicial verdicts. This pertains to the Supreme Court's ruling No. 14/PK/Pid/1997, in which the defendant, David, serves as the petitioner for a cassation appeal, having been found guilty of the criminal act of embezzlement. The Supreme Court, in its deliberations, recognized and endorsed the novum presented by the petitioner in the PK case, specifically referencing a civil case adjudicated under Decision No. 252/Pdt.G/1996/PN.Jak.In conjunction with Decision No. 332/Pdt/1997/DKI, Bar served as the PK petition's foundation. In light of the

elucidation concerning the newly presented evidence, the author posits that adequate rationale and arguments have been established on the issues that prompted the court's decisions to utilize as new evidence in the PK petition for narcotics-related criminal offenses.

Article 263(2)(a) of the Criminal Procedure Code delineates that a novum, which may serve as the foundation for submitting a PK appeal, is characterized by circumstances that engender a compelling suspicion that, had these circumstances been disclosed during the trial, the verdict would likely have resulted in an acquittal, a dismissal of all legal claims, or a rejection of the prosecution's assertions, or a more lenient criminal sanction would have been applied. According to these stipulations, a new piece of evidence will be considered admissible as the foundation for initiating a PK appeal if it possesses adequate quality, meaning it has the potential to change the prior court ruling that has already reached final and binding legal authority.[40]

According to Article 263(2)(a) of the Criminal Procedure Code, there is no explicit definition of a novum. This ambiguity has resulted in various interpretations and perspectives among legal scholars, which judges may reference when discerning the meaning of a novum. For instance, according to P.A.F. Lamintang, it was articulated that in the context of novum, as interpreted through Systematische Interpretatie during the PK appeal in Supreme Court Decision No. 109/PK/Pid/2007, which involved the former defendant Pollycarpus, the novum was constituted by the expert testimony provided by the defendant. P.A.F. Lamintang's interpretation of Systematische Interpretatie seeks to elucidate the connection between a segment of legislation and the overarching legal framework. This analysis explores the relationship between Articles 184, 185, 186, and Article 263(2) of the Criminal Procedure Code (KUHAP) concerning submitting a request for review. A review may be undertaken based on new evidence, particularly circumstantial evidence. The evidence is delineated in Article 184 of the Criminal Procedure Code. Article 186 of the Criminal Procedure Code articulates,' Expert testimony is what an expert states in court.'

Furthermore, Article 263 paragraph (2) letter an of the Criminal Procedure Code stipulates that 'If there are new circumstances (novum) that engender a strong suspicion that, had such circumstances been known during the ongoing trial, the outcome would have resulted in an acquittal (vrijspraak) or dismissal of all legal claims (ontslag van alle rechtsvolging), or the prosecution's claim would have been deemed inadmissible (niet

[40] Musa Darwin Pane and Diah Pudjiastuti, 'The Legal Aspect of New Normal and the Corruption Eradication in Indonesia', *Padjadjaran Jurnal IImu Hukum*, 7.2 (2020), 181–206.

ontvankelijk verklaring), or a more lenient criminal provision would have applied to the case.' According to P.A.F Lamintang's interpretation, it can be inferred that the term novum indirectly refers to what is classified as evidence in the KUHAP, as delineated in Article 184 of the KUHAP. This perspective contrasts with that of Komariah Sapardjaja, who asserts that: 'Novum is never identical to another, as it can encompass anything; thus, the novum presented must genuinely be something new and significant.' Komariah asserts that the criterion for novum is determined by what is submitted to the court and the caliber of the novum while allowing for flexibility regarding the form that the novum may assume. Furthermore, when evaluating the new evidence presented, the judge must also adhere to the facts or circumstances disclosed during the trial before reaching a conclusive decision.[41]

The concept of substantiality, as articulated by Komariah Emong Sapardjaja, pertains to the comprehensive realization of the components constituting the criminal act executed. The new evidence presented as the foundation for filing a PK must be able to eliminate any errors if the convicted individual submits it as the applicant for the PK. Should the individual applying for the PK not be the convicted individual or their heirs with a vested interest, it is imperative that the novum presented possesses the requisite quality to adequately satisfy the components of the criminal act as delineated by the relevant legal statutes and regulations. Consequently, evaluating the quality of the novum proposed for acceptance as the foundation for filing a PK is intrinsically linked to the components of the criminal offense attributed to the convicted individual or former defendant.[42] This assessment is profoundly contingent upon the specifics of each case. Article 263(2)(a) of the Criminal Procedure Code stipulates that any new evidence considered as the foundation for a PK must possess a quality that fulfills the criteria for an acquittal, for the dismissal of all legal claims, or for the prosecution's claims to be regarded as inadmissible, or for the invocation of a more lenient criminal provision.

Mangasa Sidabutar elucidates Article 263(2)(a) of the Criminal Procedure Code in the following manner: 'In articulating the grounds for a review predicated on new evidence (novum or novi), it is imperative to distinctly illustrate substantive matters that indicate the presence of compelling evidence fulfilling the criteria for an acquittal, the dismissal of all legal claims, a ruling declaring that "the public prosecutor's charges are not admissible," or a decision encompassing stipulations for a lesser criminal penalty.' From

[41] Budi Suhariyanto, 'Persinggungan Kewenangan Mengadili Penyalahgunaan Diskresi Antara Pengadilan TUN Dan Pengadilan Tipikor', *Jurnal Hukum Dan Peradilan*, 7.2 (2018), 213–36.

[42] Dian Agung Wicaksono and Ola Anisa Ayutama, 'Initiation of Special Court on the Local Election for Regional Leaders to Face the Simultaneously Election of Governor, Regent, and Mayor in Indonesia', *Jurnal Rechts Vinding*, 4.1 (2015), 157–79 <https://doi.org/10.33331/rechtsvinding.v4i1.53>.

this perspective, one can deduce two predominant viewpoints among Indonesian experts concerning novum as a prerequisite for submitting a request for judicial review (PK). Firstly, in a PK application, the novum presented is regarded as evidence. Secondly, in the context of a PK application, the novum submitted is not confined to being evidence (free), provided it is relevant to the decision and meets the criteria of novum.[43] The author has previously elucidated the ambiguity surrounding the definition and regulation of novum in the context of requests for judicial review (PK) in criminal cases, resulting in many interpretations among legal enforcement officials. The various interpretations emerging from judges, public prosecutors, and defense counsel lead each party to establish distinct criteria, which frequently clash concerning the meaning and intent of novum in PK applications within the framework of criminal procedure law.

The extensive range of interpretation and the lack of established guidelines present challenges when engaging with the principle of Ius Curia Novit, as articulated in Article 5(1) of Law No. 48 of 2009 concerning Judicial Power (hereafter referred to as the Judicial Law), which asserts that the judge is the exclusive interpreter of the law. Judges, as the ultimate arbiters, are presumed to possess a comprehensive understanding of the law and thus cannot dismiss a case on the grounds of ambiguous regulations. Instead, they must persist in rendering decisions through exploring, adhering to, and comprehending the legal principles and notions of justice that prevail within society. The doctrine of Ius Curia Novit asserts that it is incumbent upon every judge to understand the law, thereby obligating them to render judgments on all cases.[44]

This principle was initially discovered in the works of medieval legal scholars, known as glossators, who examined ancient Roman law. Ius Curia Novit is a principle that posits that 'the judge is knowledgeable about the law.' Consequently, it falls upon the judge to ascertain the appropriate law to be applied in a specific case and to delineate the manner of its application. This principle has been acknowledged for an extended period within the Civil Law system, whereby the parties involved in a dispute are not required to argue or substantiate the applicable law, as it is assumed that the judge possesses knowledge of the law in question. In contrast, within the framework of the Common Law system, this principle lacks recognition; it is incumbent upon the parties to articulate the relevant law, regardless of its alignment with existing case law, and this must be thoroughly presented

[43] Aris Hardinanto, 'Manfaat Analogi Dalam Hukum Pidana Untuk Mengatasi Kejahatan Yang Mengalami Modernisasi', *Yuridika*, 31.2 (2017), 220 <https://doi.org/10.20473/ydk.v31i2.4782>.
[44] Lita Tyesta Addy Listya Wardhani, Muhammad Dzikirullah H. Noho, and Aga Natalis, 'The Adoption of Various Legal Systems in Indonesia: An Effort to Initiate the Prismatic Mixed Legal Systems', *Cogent Social Sciences*, 8.1 (2022) <https://doi.org/10.1080/23311886.2022.2104710>.

and elucidated before the judge.[45]

In light of this, the inquiry posed by the author concerning the rationale behind utilizing a prior decision as novum in the review of a criminal case (PK) is addressed, notwithstanding the obscurity or ambiguity present in the stipulations regarding novum in Article 263(2)(a) of the Criminal Procedure Code, which has resulted in divergent interpretations among legal scholars. This ultimately paves the way for the judge to embrace one of the interpretations put forth by the legal experts, regardless of whether they are in favor or opposed, in the ruling they deliver. The principle of 'ius curia novit,' as elucidated earlier, warrants careful consideration when evaluating the prior District Court judge's ruling as a "novum" in a PK petition. This is essential to avert further capricious interpretations of the term 'novum' within the context of criminal proceedings in Indonesia, which could ultimately result in legal ambiguity.

Ius Constituendum Novum in Indonesian Criminal Procedure Law for Legal Certainty: Lessons from France

Historically, judicial review (PK) was not acknowledged within the context of criminal proceedings. PK was incorporated into criminal procédure law as an exceptional legal mechanism that should not be employed arbitrarily. Consequently, upon examining the Herzien Inlandsch Reglement (H.I.R), it became evident that there was no reference to PK within the regulations. Historically, the adoption of PK in criminal procédure law across the globe can be traced back to the Drives case in France in 1936. Drives faced allegations of divulging confidential information during World War I, resulting in a sentence of life imprisonment. Subsequently, new evidence surfaced that demonstrated Drives was not responsible for the crime, leading to the release of the wrongfully convicted person.[46]

According to Eddy O.S. Hiearie j, prevalent mistakes in PK proceedings for criminal cases in Indonesia stem from the general perception that PK constitutes the fourth tier of adjudication within the Indonesian legal framework. The author posits that, given the capacity of PK to annul a definitive and binding judicial ruling, such proceedings are subject to examination by all justices of the Supreme Court across various nations, except those who adjudicated the matter at the cassation level, provided the case has ascended

---

[45] Henry Dianto Pardamean Sinaga, 'The Criminal Liability of Corporate Taxpayer in the Perspective of Tax Law Reform in Indonesia', *Mimbar Hukum*, 29.3 (2017), 769–86 <https://doi.org/10.1093/he/9780199646258.003.0013>.

[46] Nanang Nurcahyo and others, 'Reform of the Criminal Law System in Indonesia Which Prioritizes Substantive Justice', *Journal of Law, Environmental and Justice*, 2.1 (2024), 89–108 <https://doi.org/10.62264/jlej.v2i1.91>.

to that stage. Drawing upon historical contexts and comparative analyses, the author concludes that the PK, as a remarkable legal mechanism, ought to be employed solely in instances where there are signs of flaws in the decision-making process or the emergence of new evidence that has the potential to mitigate the sentence of the convicted individual.[47]

The author's perspective is in harmony with the interpretation provided by Mangasa Sidabutar regarding Article 263(2)(a) of the Criminal Procédure Code. He articulates that in articulating the grounds for reconsideration in the form of novum or novi, it is essential to substantiate with concrete matters that indicate the presence of compelling evidence fulfilling the criteria for acquittal, the dismissal of all legal claims, a ruling declaring the public prosecutor's claim as inadmissible, or a decision that includes provisions for a reduced criminal penalty.[48] Consequently, in light of the preceding discussion, judges must exercise caution when assessing whether the material presented as novum fulfills the aforementioned criteria. In contrast, as previously elucidated by the author, the definition and qualifications of novum within the Criminal Procédure Code (KUHAP) remain ambiguously articulated, leaving the question of whether it constitutes a form of evidence or exists independently of it. This ambiguity has prompted diverse interpretations among legal scholars, culminating in judges' endeavors to establish legal findings (rechtvinding) in light of the lack of clarity or multiple interpretations surrounding the norms on novum.[49]

Regarding the novum in France, which stands as the inaugural nation to incorporate the PK instrument within the 'Code de Procédure Pénale' (French Criminal Procédure Law), it resembles Indonesian procedural law. Due to historical influences, the legal framework of Indonesia, which is rooted in the Civil Law or European Continental system, originates in France. France implemented its legal framework in the Netherlands, which is regarded as its colony. The Netherlands subsequently adopted it in Indonesia during its colonial rule.[50] Consequently, the legal provisions in Indonesia exhibit notable similarities

---

[47] Rika Fajrini, 'Environmental Harm and Decriminalization of Traditional Slash-and-Burn Practices in Indonesia', *International Journal for Crime, Justice and Social Democracy*, 11.1 (2022), 28–43 <https://doi.org/10.5204/ijcjsd.2034>.

[48] Robin Hofmann, 'Formalism versus Pragmatism – A Comparative Legal and Empirical Analysis of the German and Dutch Criminal Justice Systems with Regard to Effectiveness and Efficiency', *Maastricht Journal of European and Comparative Law*, 28.4 (2021), 452 – 478 <https://doi.org/10.1177/1023263X211005983>.

[49] Kirstin Drenkhahn, Fabien Jobard, and Shaïn Morisse, *Criminal Justice in Numbers, Impending Challenges to Penal Moderation in France and Germany: A Strained Restraint*, 2023 <https://doi.org/10.4324/9781003256694-4>.

[50] John H Langbein, 'The Turn to Confession Bargaining in German Criminal Procedure: Causes and Comparisons with American Plea Bargaining', *American Journal of Comparative Law*, 70.1 (2022), 139 – 161 <https://doi.org/10.1093/ajcl/avac025>.

to those of France. The legal framework of French procedural law acknowledges various legal remedies, including appeal, cassation, cassation for the sake of legal interest, and review.[51]

In French procedural law, the legal remedy known as 'revision' serves the purpose of review. The equivalence of these two legal remedies arises from their shared philosophical foundation. The regulations concerning revision are delineated in Articles 622 to 625 of the 'Code de Procédure Pénale.'[52] Article 622 of the 'Code de Procédure Pénale' articulates that a revision of a conclusive criminal judgment may be pursued on behalf of an individual convicted of a crime or offense when: Initially, after a criminal judgment for murder, evidence is introduced that compellingly indicates that the individual presumed to be the victim of the murder is, in fact, still alive.[53]

Secondly, once a decision or verdict has been rendered, whether on a crime or an offense if the court of first instance or the appellate court issues a ruling on the same charge involving a different defendant, the divergence in these decisions serves as evidence that one of the parties, or the individual deemed guilty, may indeed be innocent. Third, following the issuance of the decision, one of the witnesses who provided testimony was charged and found guilty of delivering false statements that implicated the defendant; that witness will not be permitted to testify in the forthcoming trial. Fourth, following the issuance of the ruling, a previously undisclosed fact came to light, which had eluded the court's attention during the trial, potentially casting doubt or uncertainty on the culpability of the guilty individual.[54]

According to Article 622 of the 'Code de Procédure Pénale,' it is evident that France maintains rigorous standards for the prerequisites necessary to initiate an appeal in criminal cases. The stipulations concerning novum, known in French as fait nouveau, are explicitly articulated, especially in Article 622 of the Code de Procédure Pénale,

---

[51] Florian Jeßberger, 'A Short History of Prosecuting Crimes under International Law in Germany', *Journal of International Criminal Justice*, 21.4 (2023), 779 – 792 <https://doi.org/10.1093/jicj/mqad039>.

[52] Albin Dearing and Holly Huxtable, 'Doing Justice for Victims of Violent Crime in the European Union - Reflections on Findings from a Research Project Conducted by the European Union Agency for Fundamental Rights', *International Journal of Comparative and Applied Criminal Justice*, 45.1 (2021), 39 – 66 <https://doi.org/10.1080/01924036.2020.1762233>.

[53] Stefan MacHura, 'Understanding the German Mixed Tribunal', *Zeitschrift Fur Rechtssoziologie*, 36.2 (2016), 273 – 302 <https://doi.org/10.1515/zfrs-2016-0022>.

[54] Peter J Kurlemann and Jörg Kinzig, 'The Acquittal (After Pretrial Detention) - A Rare but Fascinating Phenomenon of the Criminal Justice System', *European Journal of Crime, Criminal Law and Criminal Justice*, 27.4 (2019), 346 – 362 <https://doi.org/10.1163/15718174-02704004>.

specifically in paragraphs 1, 3, and 4.[55] Concerning paragraph 2 of Article 622 of the 'Code de Procédure Pénale,' this relates to Indonesian Criminal Procédure Law, specifically addressing the stipulations for a PK as delineated in Article 263, paragraph (2), letter b. This provision articulates that 'if in various decisions there are statements that something has been proven, but the facts or circumstances as the basis and grounds for the decision that have been proven are found to be contradictory.' The author's intention corresponds with the perspective of Oemar Seno Adji, who articulates that the second basis for submitting a revision (Les cas de revision) is the criterion identified in the Indonesian Criminal Procédure Code as 'contradiction of judicial decisions,' or in the context of French procedural law, as 'la contrariete de jugements.'

4. Conclusion

The study's findings indicate that the District Court Decision may serve as 'novum' in a request for review (PK) due to the ambiguous definition of 'novum' in Article 263(2)(a) of the Criminal Procedure Code (KUHAP), resulting in diverse interpretations by experts, thereby enabling judges to select one of these interpretations in their rulings, whether favorable or unfavorable. Secondly, the provision that enables judges to embrace one of the expert interpretations regarding the acceptance of novum, specifically a prior District Court ruling, is the principle of ius curia novit, as articulated in Article 10(1) of the Judicial Power Act, which asserts: 'Courts are prohibited from declining to examine, adjudicate, and resolve a case on the basis that the law is nonexistent or ambiguous, but are mandated to examine and adjudicate it.' Nonetheless, the implementation of this principle requires meticulous consideration. However, the principle of ius curia novit prohibits judges from dismissing a case; there is no compulsion for judges to accept a case, particularly regarding the acceptance of a District Court Judge's decision as novum in a PK petition, to avert further ambiguity in the interpretation of novum in Indonesian criminal proceedings, which ultimately results in legal uncertainty. Juridical certainty. This study reveals that the author compared criminal procedure law in France and determined that the regulation of novum in PK applications should be explicitly articulated in the Criminal Procedure Code. France's Criminal Procedure Law mandates that a PK filing must be grounded in new facts and evidence that, if introduced during the prior trial, could potentially mitigate or nullify the public

[55] Sebastian Glaser and Sarah Hartmann, 'CJEU: Germany's Public Prosecution Authorities Cannot Be Regarded as a Judicial Authority with Regard to EAWs - The Truth or a Misconstrual of the Legal Reality?', *German Law Journal*, 23.4 (2022), 650 – 660 <https://doi.org/10.1017/glj.2022.36>.

prosecutor's indictment.

5. References

Aditya, Tatu, 'Reforming Criminal Impacts in the Law of State Finance : Legal Certainty for State-Owned Enterprise', *Indonesian Law Journal*, 15.2 (2022), 125–40 <https://doi.org/10.33331/ilj.v15i2.97>

Akbar, Muhammad Fatahillah, 'The Urgency of Law Reforms on Economic Crimes in Indonesia', *Cogent Social Sciences*, 9.1 (2023) <https://doi.org/10.1080/23311886.2023.2175487>

Alvi Syahrin, M., 'The Immigration Crime and Policy: Implementation of PPNS Authorities on Investigation', *Journal of Indonesian Legal Studies*, 3.2 (2018), 175–94 <https://doi.org/10.15294/jils.v3i02.27512>

Anjari, Warih, 'Kedudukan Asas Legalitas Pasca Putusan Mahkamah Konstitusi Nomor 003/PUU-IV/2006 Dan 025/PUU-XIV/2016', *Jurnal Konstitusi*, 16.1 (2019), 1 <https://doi.org/10.31078/jk1611>

Ansori, Lutfil, 'Reformasi Penegakan Hukum Perspektif Hukum Progresif', *Jurnal Yuridis*, 4.2 (2018), 148 <https://doi.org/10.35586/.v4i2.244>

Atif, Muhammad, Shane Scahill, Muhammad Azeem, Muhammad Rehan Sarwar, and Zaheer-Ud-Din Babar, 'Drug Utilization Patterns in the Global Context: A Systematic Review', *Health Policy and Technology*, 6.4 (2017), 457–70 <https://doi.org/https://doi.org/10.1016/j.hlpt.2017.11.001>

Chakim, M. Lutfi, 'Mewujudkan Keadilan Melalui Upaya Hukum Peninjauan Kembali Pasca Putusan Mahkamah Konstitusi', *Jurnal Konstitusi*, 12.2 (2016), 328 <https://doi.org/10.31078/jk1227>

Dearing, Albin, and Holly Huxtable, 'Doing Justice for Victims of Violent Crime in the European Union - Reflections on Findings from a Research Project Conducted by the European Union Agency for Fundamental Rights', *International Journal of Comparative and Applied Criminal Justice*, 45.1 (2021), 39 – 66 <https://doi.org/10.1080/01924036.2020.1762233>

Dinda, Claudia Permata, Usman Usman, and Tri Imam Munandar, 'Praperadilan Terhadap Penetapan Status Tersangka Tindak Pidana Korupsi Oleh Komisi Pemberantasan Korupsi', *PAMPAS: Journal of Criminal Law*, 1.2 (2021), 82–103 <https://doi.org/10.22437/pampas.v1i2.9568>

Drenkhahn, Kirstin, Fabien Jobard, and Shaïn Morisse, *Criminal Justice in Numbers*, *Impending Challenges to Penal Moderation in France and Germany: A Strained Restraint*,

2023 <https://doi.org/10.4324/9781003256694-4>

Fajrini, Rika, 'Environmental Harm and Decriminalization of Traditional Slash-and-Burn Practices in Indonesia', *International Journal for Crime, Justice and Social Democracy*, 11.1 (2022), 28–43 <https://doi.org/10.5204/ijcjsd.2034>

Firdaus, Insan, 'Harmonisasi Undang-Undang Narkotika Dengan Undang-Undang Pemasyarakatan Terkait Rehabilitasi Narkotika Bagi Warga Binaan Pemasyarakatan', *Jurnal Penelitian Hukum De Jure*, 21.1 (2021), 141 <https://doi.org/10.30641/dejure.2021.V21.141-160>

Fletcher, Bennett W, Wayne E K Lehman, Harry K Wexler, Gerald Melnick, Faye S Taxman, and Douglas W Young, 'Measuring Collaboration and Integration Activities in Criminal Justice and Substance Abuse Treatment Agencies', *Drug and Alcohol Dependence*, 103 (2009), S54–64 <https://doi.org/https://doi.org/10.1016/j.drugalcdep.2009.01.001>

Glaser, Sebastian, and Sarah Hartmann, 'CJEU: Germany's Public Prosecution Authorities Cannot Be Regarded as a Judicial Authority with Regard to EAWs - The Truth or a Misconstrual of the Legal Reality?', *German Law Journal*, 23.4 (2022), 650 – 660 <https://doi.org/10.1017/glj.2022.36>

Greer, Alissa, Matt Bonn, Caitlin Shane, Alex Stevens, Natasha Tousenard, and Alison Ritter, 'The Details of Decriminalization: Designing a Non-Criminal Response to the Possession of Drugs for Personal Use', *International Journal of Drug Policy*, 102 (2022), 103605 <https://doi.org/https://doi.org/10.1016/j.drugpo.2022.103605>

Hardinanto, Aris, 'Manfaat Analogi Dalam Hukum Pidana Untuk Mengatasi Kejahatan Yang Mengalami Modernisasi', *Yuridika*, 31.2 (2017), 220 <https://doi.org/10.20473/ydk.v31i2.4782>

Hofmann, Robin, 'Formalism versus Pragmatism – A Comparative Legal and Empirical Analysis of the German and Dutch Criminal Justice Systems with Regard to Effectiveness and Efficiency', *Maastricht Journal of European and Comparative Law*, 28.4 (2021), 452 – 478 <https://doi.org/10.1177/1023263X211005983>

Igir, Wulan E., Olga A. Pangkerego, and Anna S. Wahongan, 'Pembinaan Terhadap Anak Pelaku Tindak Pidana Narkotika Dalam Rangka Perlindungan Anak', *Lex Crimen*, 9.3 (2020), 104–14

Januarsyah, Mas Putra Zenno, 'The Implementation of Ultimum Remedium Principle in Criminal Case of Corruption', *Jurnal Yudisial*, 10.3 (2017), 257–76 <https://doi.org/10.29123/jy.v10i3.266>

Jeßberger, Florian, 'A Short History of Prosecuting Crimes under International Law in

Germany', *Journal of International Criminal Justice*, 21.4 (2023), 779 – 792 <https://doi.org/10.1093/jicj/mqad039>

Kammersgaard, Tobias, 'From Punishment to Help? Continuity and Change in the Norwegian Decriminalization Reform Proposal', *International Journal of Drug Policy*, 113 (2023), 103963 <https://doi.org/https://doi.org/10.1016/j.drugpo.2023.103963>

Kurlemann, Peter J, and Jörg Kinzig, 'The Acquittal (After Pretrial Detention) - A Rare but Fascinating Phenomenon of the Criminal Justice System', *European Journal of Crime, Criminal Law and Criminal Justice*, 27.4 (2019), 346 – 362 <https://doi.org/10.1163/15718174-02704004>

Langbein, John H, 'The Turn to Confession Bargaining in German Criminal Procedure: Causes and Comparisons with American Plea Bargaining', *American Journal of Comparative Law*, 70.1 (2022), 139 – 161 <https://doi.org/10.1093/ajcl/avac025>

Lasco, Gideon, 'Drugs and Drug Wars as Populist Tropes in Asia: Illustrative Examples and Implications for Drug Policy', *International Journal of Drug Policy*, 77 (2020), 102668 <https://doi.org/https://doi.org/10.1016/j.drugpo.2020.102668>

Latifiani, Dian, 'Human Attitude And Technology : Analyzing A Legal Culture On Electronic Court System In Indonesia (Case Of Religious Court)', *Jils (Journal of Indonesian Legal Studies) Volume*, 6.1 (2021), 157–84 <https://doi.org/doi.org/10.15294/jils.v6i1.44450>

Lindsey, Tim, and Nicholson Pip, *Drugs Law and Legal Practice in Southeast Asia: Indonesia, Singapore and Vietnam*, First (Melbourne: Bloomsbury Publishing, 2016)

MacHura, Stefan, 'Understanding the German Mixed Tribunal', *Zeitschrift Fur Rechtssoziologie*, 36.2 (2016), 273 – 302 <https://doi.org/10.1515/zfrs-2016-0022>

Nurcahyo, Nanang, Ricky Ricky, FX Hastowo Broto Laksito, and Ramalina Ranaivo Mikea Manitra, 'Reform of the Criminal Law System in Indonesia Which Prioritizes Substantive Justice', *Journal of Law, Environmental and Justice*, 2.1 (2024), 89–108 <https://doi.org/10.62264/jlej.v2i1.91>

Nurjihad, Nurjihad, and Ariyanto Ariyanto, 'Electronic Trial At The Supreme Court: Needs, Challenges And Arrangement', *Jurnal Jurisprudence*, 11.2 (2022), 170–86 <https://doi.org/10.23917/jurisprudence.v11i2.16348>

Pakpahan, Novritsar Hasintongan, Teguh Prasetyo, Erny Herlin Setyorini, and Yovita Arie Mangesti, 'Trial Proving in Electronic Criminal Case Trial Based On the Dignified Justice Perspective', *Ius Poenale*, 3.1 (2022), 1–12 <https://doi.org/10.25041/ip.v3i1.2452>

Pane, Musa Darwin, and Diah Pudjiastuti, 'The Legal Aspect of New Normal and the Corruption Eradication in Indonesia', *Padjadjaran Jurnal IImu Hukum*, 7.2 (2020), 181–206

Pratiwi, Risanti Suci, 'Legalitas Rangkap Jabatan Direksi Dan Dewan Komisaris Pada Badan Usaha Milik Negara Yang Berbentuk Perseroan Terbatas', *Jurnal Lex Renaissance*, 4.2 (2019), 266–84 <https://doi.org/10.20885/jlr.vol4.iss2.art4>

Prayogo, R. Tony, 'Penerapan Asas Kepastian Hukum Dalam Peraturan Mahkamah Agung Nomor 1 Tahun 2011 Tentang Hak Uji Materiil Dan Dalam Pedoman Beracara Dalam Pengujian Undang-Undang (The Implementation Of Legal Certainty Principle In Supreme Court Regulation Number 1 Of 20', *Jurnal Legislasi Indonesia*, 13.2 (2016), 191–201

Puteri, Hikmawati, 'Pidana Pengawasan Sebagai Pengganti Pidana Bersyarat Menuju Keadilan Restoratif', *Negara Hukum*, 7.1 (2016), 71–88

Rachmawaty, Rachmawaty, Matthew Marcellinno Gunawan, and Novi Nurviani, 'Judicial Perspectives on the Equitable Resolution of Anti-SLAPP Cases: Insights from Indonesia', *Journal of Law, Environmental and Justice*, 2.1 (2024), 18–41 <https://doi.org/10.62264/jlej.v2i1.88>

Rasdi, Rasdi, Pujiyono Pujiyono, Nur Rochaeti, and Rehulina Rehulina, 'Reformulation of the Criminal Justice System for Children in Conflict Based on Pancasila Justice', *Lex Scientia Law Review*, 6.2 (2022), 479–518 <https://doi.org/10.15294/lesrev.v6i2.58320>

Ricci, Paolo, and Floriana Fusco, 'Social Reporting in the Italian Justice System: Milan Court Experience', *Public Integrity*, 18.3 (2016), 254 – 268 <https://doi.org/10.1080/10999922.2016.1139524>

Rifai, Eddy, 'An Analysis of the Death Penalty in Indonesia Criminal Law', *Sriwijaya Law Review*, 1.2 (2017), 190–99 <https://doi.org/10.28946/slrev.Vol1.Iss2.44.pp191-200>

Saputra, Rian, Muhammad Khalif Ardi, Pujiyono Pujiyono, and Sunny Ummul Firdaus, 'Reform Regulation of Novum in Criminal Judges in an Effort to Provide Legal Certainty', *JILS (Journal of Indonesian Legal Studies)*, 6.2 (2021), 437–82 <https://doi.org/10.15294/jils.v6i2.51371>

Saputra, Rian, M Zaid, Pujiyono Suwadi, Jaco Barkhuizen, and Tiara Tiolince, 'Reconstruction of Chemical Castration Sanctions Implementation Based on the Medical Ethics Code (Comparison with Russia and South Korea)', *Lex Scientia Law Review*, 7.1 (2023), 61–118 <https://doi.org/10.15294/lesrev.v7i1.64143>

Setyawan, Vincentius Patria, and Djuyamto, 'Kajian Terhadap Kewenangan Penetapan

Tersangka Oleh Hakim Dalam Perkara Illegal Logging (Analisis Putusan No. 145/Pid.B/2014/PN.Dpu)', *Justisi*, 10.1 (2024), 108–19 <https://doi.org/10.33506/jurnaljustisi.v10i1.2657>

Sinaga, Henry Dianto Pardamean, 'The Criminal Liability of Corporate Taxpayer in the Perspective of Tax Law Reform in Indonesia', *Mimbar Hukum*, 29.3 (2017), 769–86 <https://doi.org/10.1093/he/9780199646258.003.0013>

Skandiva, Razananda, and Beniharmoni Harefa, 'Urgensi Penerapan Foreign Bribery Dalam Konvensi Antikorupsi Di Indonesia', *Integritas : Jurnal Antikorupsi*, 7.2 (2022), 245–62 <https://doi.org/10.32697/integritas.v7i2.826>

Suhariyanto, Budi, 'Persinggungan Kewenangan Mengadili Penyalahgunaan Diskresi Antara Pengadilan TUN Dan Pengadilan Tipikor', *Jurnal Hukum Dan Peradilan*, 7.2 (2018), 213–36

Sukinta, 'Konsep Dan Praktik Pelaksanaan Amicus Curiae Dalam Sistem Peradilan Pidana Indonesia', *Administrative Law & Governance Journal.*, 4.1 (2021), 10

Suwadi, Pujiyono, Priscilla Wresty Ayuningtyas, Shintya Yulfa Septiningrum, and Reda Manthovani, 'Legal Comparison of the Use of Telemedicine between Indonesia and the United States', *International Journal of Human Rights in Healthcare*, ahead-of-p.ahead-of-print (2022) <https://doi.org/10.1108/IJHRH-04-2022-0032>

Syahril, Syahril, Mohd Din, and Mujibussalim Mujibussalim, 'Penerapan Undang-Undang Pemberantasan Tindak Pidana Korupsi Terhadap Kejahatan Di Bidang Perbankan', *Syiah Kuala Law Journal*, 1.3 (2017), 16–28 <https://doi.org/10.24815/sklj.v1i3.9635>

Tjoneng, Arman, 'Gugatan Sederhana Sebagai Terobosan Mahkamah Agung Dalam Menyelesaikan Penumpukan Perkara Di Pengadilan Dan Permasalahannya', *Dialogia Iuridica: Jurnal Hukum Bisnis Dan Investasi*, 8.2 (2017), 93 <https://doi.org/10.28932/di.v8i2.726>

Wahyudi, Slamet Tri, 'Problematika Penerapan Pidana Mati Dalam Konteks Penegakan Hukum Di Indonesia', *Jurnal Hukum Dan Peradilan*, 1.2 (2012), 207 <https://doi.org/10.25216/jhp.1.2.2012.207-234>

Wardhani, Lita Tyesta Addy Listya, Muhammad Dzikirullah H. Noho, and Aga Natalis, 'The Adoption of Various Legal Systems in Indonesia: An Effort to Initiate the Prismatic Mixed Legal Systems', *Cogent Social Sciences*, 8.1 (2022) <https://doi.org/10.1080/23311886.2022.2104710>

Wicaksono, Dian Agung, and Ola Anisa Ayutama, 'Initiation of Special Court on the Local Election for Regional Leaders to Face the Simultaneously Election of Governor,

Regent, and Mayor in Indonesia', *Jurnal Rechts Vinding*, 4.1 (2015), 157–79 <https://doi.org/10.33331/rechtsvinding.v4i1.53>

de Willebois, Emile van der Does, and Jean-Pierre Brun, 'Using Civil Remedies in Corruption and Asset Recovery Cases', *Case Western Reserve Journal of International Law*, 45.3 (2013), 615

Wiwoho, Jamal, Irwan Trinugroho, Dona Budi Kharisma, and Pujiyono Suwadi, 'Islamic Crypto Assets and Regulatory Framework: Evidence from Indonesia and Global Approaches', *International Journal of Law and Management*, 66.2 (2024), 155 – 171 <https://doi.org/10.1108/IJLMA-03-2023-0051>