

## Model of Narcotics Criminal Investigation Authority between BNN and Police of the Republic of Indonesia Based on Justice Value

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### Abstract

The purpose of this study is to analyze and discover a new concept of the authority of the National Police and the National Narcotics Agency in investigating narcotics crimes based on justice. The approach method used in this research is social legal research. This research uses primary data and secondary data. Data collection techniques through literature studies, interviews and questionnaires. The data collected was analyzed qualitatively. The results of the study found that the authority to investigate narcotics crimes regulated in Law Number 35 of 2009 concerning Narcotics is not balanced between the BNN and the National Police. The model of authority to investigate narcotics crimes, especially in the investigation stage by adopting the Pancasila values of justice, so that there is equality between Polri investigators and BNN investigators. In addition to the reconstruction of values, it is also necessary to reconstruct the regulatory norms for investigating narcotics crimes so that they are based on Pancasila values of justice, namely the addition of the word Polri investigator in Article 75, Article 80, Article 86, Article 106, Article 107 of Law Number 35 of 2009 concerning Narcotics, and the elimination Article 108 of Law Number 35 of 2009 concerning Narcotics, so that there is equality of authority between Polri investigators and BNN investigators in investigating narcotics crimes.

**Keywords:** Authority, National Police, National Narcotics Agency.

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### A. INTRODUCTION

Responding to the development of the drug problem which continues to increase and is increasingly serious, the MPR-RI Decree Number VI/MPR/2002 through the 2002 General Session of the People's Consultative Assembly of the Republic of Indonesia (MPR-RI) has recommended the DPR-RI and the President of the Republic of Indonesia to make changes to the Law Number 22 of 1997 concerning Narcotics. Therefore, the Government and DPR-RI passed and promulgated Law Number 35 of 2009 concerning Narcotics, as a refinement of Law Number 22 of 1997. Based on Law Number 35 of 2009, BNN is given the authority to investigate and investigate narcotics and precursor crimes. narcotics.

Efforts to strengthen BNN institutions are carried out in various ways. The Indonesian government has increased the BNN operational budget, improved

technology, and increased the welfare of BNN employees [1].

Philosophically, in the life of the nation and state in Indonesia, there are goals or ideals to be achieved. This goal is contained in Paragraph IV of the Preamble of the 1945 Constitution of the Republic of Indonesia, namely, "... to protect the entire Indonesian nation and all of Indonesia's bloodshed and to advance public welfare, educate the nation's life, and participate in carrying out world order based on freedom, eternal peace and social justice". Efforts to prevent and

<sup>1</sup> A. Marboe, 2016. *MPR akan bantu perkuat BNN seperti KPK*, (online). Tersedia dalam: <http://www.antaraneews.com/berita/548439/mpr-akan-bantu-perkuat-bnn-seperti-kpk> [diakses 18 September 2022] South Kalimantan. A. Marboe, 2016. The MPR will help strengthen BNN like the KPK, (online). Available at: <http://www.antaraneews.com/news/548439/mpr-will-help-strengthen-bnn-like-kpk> [accessed 18 September 2022]n Indonesia

eradicate the abuse and illicit traffic of narcotics and narcotics precursors are in line with the state's goal of protecting the entire Indonesian nation and all of Indonesia's bloodshed. This means that the state must provide protection to all Indonesian people from various actions that can harm, both physical and non-physical threats.

Then sociologically, according to a survey conducted by BNN, BRIN and BPS that the development of narcotics abuse in 2021 found that the prevalence of narcotics abuse in Indonesia increased by 0.15 percent. the condition of the Indonesian population exposed to narcotics, first is the group that has consumed narcotics as many as 4,534,744 in 2019. This figure rises to 4,827,619 in 2021. Second, the group of users a year, namely 3,419,188 in 2019, increases to 3,662,646 in 2021. Thus we can conclude that the prevalence has increased, namely in 2019 by 1.8% to 1.95% in 2021, meaning an increase of 0.15%," of course the reported figures are only a small illustration of the problem of illicit drug trafficking which actually has a bigger impact. Therefore, the Government needs to seriously increase its role, because the impact and cost losses incurred will be even greater. The fact that most narcotics abusers are teenagers and are highly educated are invaluable national assets. Moreover, there is information that there are at least 644 types of narcotics in the world, but only 43 are regulated in Indonesia [2].

Indonesia's drug eradication efforts are due to a change in Indonesia's paradigm regarding drug crime. The Indonesian government currently views that the current status and conditions are in grave danger caused by drugs. The Indonesian government views that Indonesia is in a state of national drug emergency, so eradicating drugs is one of Indonesia's national priority agendas [3].

Meanwhile, from a juridical point of view, the enactment of Law number 35 of 2009 concerning Narcotics and the establishment of the National Narcotics Agency as an investigator in narcotics crimes shows clear evidence that the state is serious in dealing with the abuse of narcotics and narcotics precursors. However, in its development there are weaknesses and adjustments are needed with existing developments in society.

<sup>2</sup> Wildansyah, S. 2017. *Ada 644 Jenis Narkoba di Dunia, Baru 43 yang Diatur di Indonesia*. Detik.com. Diakses pada 16 September 2022.

<sup>3</sup> R. Supermana, 2015. *Presiden Jokowi: Indonesia Darurat Narkoba*, (online). Tersedia dalam: [http://rri.co.id/post/berita/137516/nasional/presiden\\_jokowi\\_indonesia\\_darurat\\_narkoba.html](http://rri.co.id/post/berita/137516/nasional/presiden_jokowi_indonesia_darurat_narkoba.html) [diakses 7 April 2016]

Several formal provisions in Law number 35 of 2009 cause problems and interpretation in its application. In enforcing Law Number 35 of 2009, there are three investigators, namely Polri investigators, Polri investigators, and PPNS. However, the authority that exists with Polri investigators is different from BNN investigators.

In article 71 of Law Number 35 of 2009 Concerning Narcotics, it is emphasized that: "In carrying out the task of eradicating the abuse and illicit traffic of Narcotics and Narcotics Precursors, BNN has the authority to conduct investigations and investigations of the abuse and illicit traffic of Narcotics and Narcotics Precursors" Article 72 paragraph (1) of the Law Number 35 of 2009 concerning Narcotics, also confirms that: "The authority referred to in Article 71 is carried out by BNN investigators." It can be concluded from Article 71 in conjunction with Article 72 paragraph (1) of Law Number 35 of 2009 Concerning Narcotics, that those who have the authority to conduct investigations into narcotics crimes are BNN investigators.

The question that can be put forward is why the National Narcotics Agency has been given the authority to investigate, and even investigate narcotics crimes. Whereas in Law Number 22 of 1997 concerning Narcotics and Presidential Regulation Number 83 of 2007 concerning the National Narcotics Agency, Provincial Narcotics Agency, and Regency/City Narcotics Agency, BNN is not given investigative authority.

In addition, if Article 71 in conjunction with Article 72 paragraph (1) of Law Number 35 of 2009 concerning Narcotics is linked to Article 81 of Law Number 35 of 2009 concerning Narcotics, which confirms that: "Investigators from the Indonesian National Police and BNN investigators have the authority to investigate abuse and the illicit traffic of Narcotics and Narcotics Precursors based on this Law", thus creating a conflict of norms, namely between Article 71 in conjunction with Article 72 paragraph (1) of Law Number 35 of 2009 and Article 81 of Law Number 35 of 2009, regarding whether Polri investigators have the authority to carry out investigations against narcotics crimes, or only BNN investigators are authorized to conduct investigations into narcotics crimes.

If indeed Polri investigators have the authority to conduct investigations into all criminal acts including narcotics crimes based on Article 1 point 1 of the Criminal Procedure Code that: "Investigators are officials of the state police of the Republic of Indonesia or certain civil servant officials who are given special authority by law to conduct investigations" and Article 81 of Law Number 35 of 2009 which also confirms that: "Republic of Indonesia National Police

investigators and BNN investigators have the authority to investigate the abuse and illicit traffic of Narcotics and Narcotics Precursors based on this Law, the problem that arises is whether it does not cause overlap between investigators BNN with Police Investigators in the investigation of narcotics crimes.

The investigative authority contained in Law number 35 of 2009 in a grammatical interpretation is only left to BNN investigators, Polri investigators cannot use the investigative authority as stated in Law number 35 of 2009. Of course, this difference creates legal uncertainty and injustice.

## B. RESEARCH METHOD

The approach method used in this research is social legal research [4]. This research uses primary data and secondary data. Data collection techniques through literature studies, interviews and questionnaires. The data collected was analyzed qualitatively [5].

## C. DISCUSSION

### 1. The authority to investigate narcotics crimes is not balanced between BNN and Polri

Article 81 of Law Number 35 of 2009 concerning Narcotics, stipulates: Indonesian National Police investigators and BNN investigators have the authority to conduct investigations into the abuse and illicit traffic of Narcotics and Narcotics Precursors based on this Law.

If in Law Number 22 of 1997 concerning Narcotics, only Polri investigators and civil servant investigators become investigators in narcotics crimes, then based on Article 81 of Law Number 35 of 2009 concerning Narcotics, there are 3 (three) investigators who are authorized to investigate abuse and trafficking illicit Narcotics and Narcotics Precursors, namely

Police Investigators (Article 81), BNN Investigators (Article 81), and Civil Servant Investigators (Article 82).

Even though Polri investigators are still recognized as investigators in the abuse and illicit traffic of Narcotics and Narcotics Precursors in Article 81 of Law Number 35 of 2009 concerning Narcotics, the investigative authority granted by Law Number 35 of 2009 concerning Narcotics to Polri investigators is very limited. Meanwhile, the investigative authority granted by Law Number 35 of 2009 concerning Narcotics to BNN investigators is very broad.

From an analysis of the authority of Polri investigators in Law Number 35 of 2009 concerning Narcotics, there are only 4 (four) articles which regulate the authority of Polri in investigating narcotics crimes, namely: Article 84, Article 87, Article 89 and Article 92, while the authority BNN investigators in Law Number 35 of 2009 concerning Narcotics there are 10 (ten) articles which regulate the authority of BNN investigators in investigating narcotics crimes, namely: Article 75, Article 76, Article 77, Article 78, Article 79, Article 80, Article 84, Article 87, Article 89 and Article 92.

From a comparison between the authority of Polri investigators and the authority of BNN investigators in Law Number 35 of 2009, there has been an imbalance or inequality between the authority of Polri investigators and the authority of BNN investigators who are both given the authority to carry out investigations into the abuse and illicit traffic of Narcotics and Narcotics Precursor based on Article 81 Law Number 35 of 2009.

Then in Article 71 of Law Number 35 of 2009, it is determined that: in carrying out the task of eradicating the abuse and illicit traffic of Narcotics and Narcotics Precursors, BNN has the authority to conduct investigations and investigations of the abuse and illicit traffic of Narcotics and Narcotics Precursors. The problem that can arise is whether the National Narcotics Agency is also authorized to carry out investigations and investigations related to psychotropic crimes as regulated in Law Number 5 of 1997 concerning Psychotropics?

It should be noted that class III and group IV psychotropics are attached to Law Number 5 of 1997 concerning Psychotropics which is still valid today. Because the elements of crime and punishment in Law Number 5 of 1997 concerning Psychotropics apply specifically, investigators must also be adjusted to Law Number 5 of 1997 concerning Psychotropics.

Law Number 5 of 1997 concerning Psychotropics stipulates that only certain National Police Investigators and PNS Investigators can act as

<sup>4</sup>Agus Irawan Yustisianto, Sri endah Wahyuningsih, & Anis mashdurohatun, Reconstruction of Legal Protection Regulations against Victims of Crime of Household Violence Based on Justice Value, Sch Int J Law Crime Justice, Dec, 2022; 5(12): 513-519, see too Anis Mashdurohatun, Danialsyah, Reconstruction of Mediation in Environmental Disputes Settlement Based on Pancasila Justice, Volume.24 Issue 3. Journal Of Law And Political Sciences, 2020.pp. 123-138. Anis Mashdurohatun, Gunarto & Adhi Budi Susilo, The Transfer Of Intellectual Property Rights As Object Of Fiduciary Guarantee, Jurnal Akta. Volume 9 No. 3, September 2022. Mukti Fajar ND dan Yulianto Achmad, Dualisme Penelitian Hukum Normatif dan Empiris, Pustaka Pelajar, Yogyakarta, 2010, Page. 183.

<sup>5</sup>Anis Mashdurohatun, Danialsyah, Reconstruction of Mediation in Environmental Disputes Settlement Based on Pancasila Justice, Volume.24 Issue 3. Journal Of Law And Political Sciences, 2020.pp. 123-138.

investigators. Certain PNS investigators as referred to in Law Number 5 of 1997 concerning Psychotropics are different from BNN Investigators who are only recognized and authorized under Law Number 35 of 2009 concerning Narcotics

The logical consequence is that BNN investigators are not authorized to carry out investigations and investigations into class III and class IV psychotropic crimes. In practice, this will create a "vacancy" in the authority of the National Narcotics Agency in the process of investigating and investigating psychotropic crimes. The problem is, how do investigators know about the types of narcotics or psychotropics if no arrests or confiscations have been made and laboratory test results? This has a great chance of causing wrongful arrest of people by BNN investigators due to "error in objecto", if the evidence is. It was suspected that it was a psychotropic class III and group IV. Furthermore, in practice it is also possible for overlapping periods of arrest to occur between the three investigators. This can happen because there is no clear regulation regarding the system of operational procedures and coordination between the three the investigator. For example, a person has been arrested by Police Investigators, and has been questioned for almost 24 hours.

Then the Police Investigators turned to BNN Investigators so that the process of arrest and examination is repeated from the beginning again, and BNN has the authority to re-examine for 6 x 24 hours. Or a suspect who has been arrested by BNN

investigators for more than 24 hours turns out to be a test result the laboratory stated that the evidence was a type of psychotropic group III and IV, so it had to be transferred to the National Police Investigators and detained again for 24 hours by Police Investigators. This of course will be detrimental to the suspect, who should only be allowed to be arrested by Police Investigators for a maximum of 24 hours.

Therefore investigators are demanded to be careful in carrying out investigations and investigations. Therefore, there should be clear rules, if it is Police investigators who make the arrests from the start, they cannot be transferred to BNN investigators. And vice versa, unless it has continued in the detention process. In addition, it needs to be clearly regulated that if there is a transfer of investigators, the calculation of the arrest period must be cumulative (arrest period counted from the beginning whoever the investigator).

Regarding the investigation of psychotropic crimes above, there has also been an imbalance or inequality between the authority of Polri investigators and the authority of BNN investigators, because those who are given the authority to investigate psychotropic crimes based on Law Number 5 of 1997 are only given to Polri investigators and PNS investigators, while investigators in investigations into the abuse and illicit traffic of Narcotics and Narcotics Precursors regulated by Law Number 35 of 2009, namely Police Investigators, BNN Investigators and Civil Servants Investigators.

**Table I: Comparison of Total Authorities of Polri Investigates and BNN Investigators**

CHAPTER	AUTHORITIES OF POLRI INVESTIGATORS	AUTHORITIES OF THE INVESTIGATOR BNN
75	Not authorized based on Law No. 35 of 2009	<ol style="list-style-type: none"> <li>1. investigation into the abuse and distribution of Narcotics</li> <li>2. Examine people or corporations suspected of abusing Narcotics</li> <li>3. calling witnesses</li> <li>4. ordered to stop the person suspected of abuse Narcotics</li> <li>5. examine, search, and confiscate evidence</li> <li>6. check letters and/or documents</li> <li>7. catch and hold</li> <li>8. make an interdiction</li> <li>9. wiretapping</li> <li>10. covert purchase and delivery under supervision;</li> <li>11. destroy narcotics</li> <li>12. do a urine test, blood test, hair test, dioxyribonucleic acid test</li> <li>13. Take a fingerprint and take a photo</li> <li>14. transfer of people, goods, animals and plants;</li> <li>15. open and check each consignment</li> <li>16. perform sealing</li> <li>17. conduct laboratory tests on samples and evidence</li> <li>18. ask for help from experts</li> <li>19. stop the investigation</li> </ol>
76	Not authorized based on Law No. 35 of	(1) The arrest shall be made no later than 3 x 24 (three

CHAPTER	AUTHORITIES OF POLRI INVESTIGATORS	AUTHORITIES OF THE INVESTIGATOR BNN
	2009	times twenty four) hours after the investigator receives the arrest warrant. (2) The arrest as referred to in paragraph (1) can be extended for a maximum of 3 x 24 (three times twenty four) hours
77	Not authorized based on Law No. 35 of 2009	(1) Wiretapping is carried out after there is sufficient preliminary evidence and is carried out no later than 3 (three) months after the investigator receives the wiretapping letter. (2) Wiretapping is only carried out with written permission from the chairman of the court. (3) Wiretapping may be extended 1 (one) time for the same period of time. (4) Wiretapping procedures are carried out in accordance with the provisions of laws and regulations.
78	Not authorized based on Law No. 35 of 2009	(1) In urgent circumstances wiretapping can be carried out without prior written permission from the chairman of the district court. (2) Within a maximum period of 1 x 24 (one twenty four) hours the Investigator is required to request written permission from the head of the district court regarding wiretapping as referred to in paragraph (1).
79	Not authorized based on Law No. 35 of 2009	(5) Undercover purchase investigation techniques and delivery under supervision carried out by investigators on written orders from the leadership.
80	Not authorized based on Law No. 35 of 2009	BNN investigators are also authorized to: a. submit case files, suspects, and evidence directly to the public prosecutor; b. order the bank or other financial institution to block the account c. to obtain information from the bank or other financial institution regarding the financial condition of the suspect d. to obtain information from PPATK e. ask directly to prohibit someone from traveling abroad; f. request data on assets and taxation data of the suspect g. suspend a financial transaction, trade transaction, and other agreements or temporarily revoke permits, licenses, and concessions h. request assistance from Interpol Indonesia or law enforcement agencies of other countries
84	In carrying out investigations into the abuse and illicit traffic of Narcotics and Narcotics Precursor, Police investigators notify in writing the start of investigations to BNN investigators and vice versa.	In carrying out an investigation into the abuse and illicit traffic of Narcotics and Narcotics Precursor, the Police investigator shall notify BNN investigators in writing of the commencement of the investigation and vice versa.
87	Police investigators or BNN investigators who confiscate Narcotics and Narcotics Precursors are required to carry out sealing and make confiscation minutes	Police investigators or BNN investigators who confiscate Narcotics and Narcotics Precursors are required to carry out sealing and make confiscation minutes
89	(1) Investigators are responsible for storing and securing confiscated goods under their control. B. (2) Further provisions are regulated by Government Regulation.	(1) The investigator is responsible for C. storage and security of confiscated goods under his control. D. (2) Further provisions are regulated by Government Regulation.

CHAPTER	AUTHORITIES OF POLRI INVESTIGATORS	AUTHORITIES OF THE INVESTIGATOR BNN
92	<ol style="list-style-type: none"> <li>(1) Police investigators and BNN investigators are required to destroy the Narcotics plants found within a maximum period of 2 x 24 hours and after they have been set aside</li> <li>(2) For Narcotics plants which due to their number and difficult area, destruction shall be carried out within a maximum period of 14 (fourteen) days.</li> <li>(3) Destroying and setting aside part of the Narcotics plant by making an official report</li> <li>(4) A small portion of the Narcotics plants which are not destroyed is kept by the investigator for the purposes of proof</li> <li>(5) A small portion of the Narcotics plants that are not destroyed is kept by the Minister and the Food and Drug Supervisory Agency for the benefit of developing science and technology.</li> <li>(6) A small portion of the Narcotics plants which are not destroyed are kept by BNN for the purposes of education and training</li> </ol>	<ol style="list-style-type: none"> <li>(1) Police investigators and BNN investigators are required to destroy the Narcotics plants found within a maximum period of 2 x 24 hours and after they have been set aside</li> <li>(2) For Narcotics plants which due to their number and difficult area, destruction shall be carried out within a maximum period of 14 (fourteen) days.</li> <li>(3) Destroying and setting aside part of the Narcotics plant by making an official report</li> <li>(4) A small portion of the Narcotics plants which are not destroyed is kept by the investigator for the purposes of proof.</li> <li>(5) A small portion of the Narcotics plants that are not destroyed is kept by the Minister and the Food and Drug Supervisory Agency for the benefit of developing science and technology.</li> <li>(6) A small portion of the Narcotics plants which are not destroyed is kept by BNN for education and training purposes.</li> </ol>

## 2. The procedures for investigating narcotics crimes are different between BNN and Polri

### a. Arrest

Article 81 of Law Number 35 of 2009 concerning Narcotics stipulates that Indonesian National Police investigators and BNN investigators have the authority to conduct investigations into the abuse and illicit traffic of Narcotics and Narcotics Precursors based on this Law.

One of the authorities of BNN in investigating the abuse and illicit traffic of Narcotics and Narcotics Precursor which is regulated in 75 Law Number 35 of 2009 is arrest.

The meaning of arrest is not explained in Law Number 35 of 2009, so the meaning of arrest refers to Article 1 number 20 of the Criminal Procedure Code, namely arrest is an act of an investigator in the form of temporarily restraining the freedom of a suspect or defendant if there is sufficient evidence for the purposes of investigation or prosecution and or justice in matters as well as according to the method regulated in this law.

If BNN's investigative powers including arrests are regulated in Articles 75 and 76 of Law Number 35 of 2009, the authority given to Polri investigators is different. Not one article in Law Number 35 of 2009 authorizes the arrest of Polri investigators in investigating narcotics crimes.

Considering that the authority to arrest by Polri investigators is not specifically regulated in Law Number 35 of 2009, the legal basis and procedures for arrests carried out by Polri investigators in the investigation of narcotics crimes refer to the Criminal Procedure Code, specifically Articles 17 – Article 19 of the Criminal Procedure Code.

In addition to the different legal basis for arrest authority between BNN investigators and Polri investigators, the duration of arrests carried out by BNN investigators is also different from the duration of arrests made by Polri investigators.

Based on Article 75 letter g and Article 76 of the Narcotics Law specifically for investigators, BNN has the authority to forcefully arrest anyone suspected of committing abuse and illicit trafficking of narcotics and narcotics precursors for a maximum of 3 x 24 hours from the time the arrest warrant is received by the investigator, and the arrest is as referred to above can be extended for a maximum of 3 x 24 hours. The reason that is often put forward by investigators who carry out investigations into narcotics crimes is that the term the maximum arrest time of 72 hours is not enough to carry out laboratory tests for narcotics, test the suspect's urine, and to uncover narcotics dealer networks (organized crime), so it is necessary increasing the authority to force arrest, which is only permitted for

BNN investigators to a maximum of 3 x 24 hours and extended without anyone's consent to a maximum of 3 x 24 hours.

The reasons for extending the arrest period above cannot be justified, because now urine tests and narcotics laboratory tests can be done in just a few minutes. In addition, even remote areas already have medical equipment. As for the reason for uncovering a larger narcotics network, this reason is very illogical because it is indeed impossible to be sufficient to uncover a large narcotics organized crime just during the arrest period and within a short 6 x 24 hours. Even though BNN investigators can use forced detention for suspects of narcotics crimes.

In addition, if you look closely, the maximum arrest authority of 6 x 24 hours only applies to BNN investigators. If BNN investigators have the authority to make arrests for a maximum of 6 x 24 hours, then it is different from the length of time for arrests by Police investigators as stipulated in Article 19 paragraph (1) of the Criminal Procedure Code, which is only 24 hours at most.

In the process of coercion, especially the arrest of suspects in narcotics cases, the grace period according to the Narcotics Law is set at 3 x 24 hours and can be extended once for 3 x 24 hours, after which a decision is made to be detained or placed in a rehabilitation institution. This means that a long time is required for the process of asking for expert testimony, through an assessment or *visum et repertum*, what is the condition of the suspect's dependence when he is arrested, whether his dependence is light, moderate, or severe. Since when do you use drugs? What type of narcotics were used and how long it will take for his therapy and rehabilitation. All of this needs to be clarified so that a clear picture of the narcotics problem at trial.

Meanwhile, according to the Criminal Procedure Code, the time limit is 1 x 24 hours and a decision must be made whether the suspect is detained or not. Police investigators used the time to arrest according to the Criminal Procedure Code because they were not given authority in accordance with Law Number 35 of 2009. As a result, in examining the abuse case, after 1x24 hours, the Police investigator immediately detained him by applying the dealer article (articles 111 to 114) because of the element of the crime of abuse and dealers are almost the same (carrying, possessing, possessing narcotics) without considering the amount of evidence, and also without asking what the purpose of possession of the narcotics is, whether they are used themselves (as abusers) or sold for profit (as retailers).

The investigative practice as mentioned above is in fact inconsistent with or deviating from the

provisions of Law Number 35 of 2009 concerning Narcotics which apply specifically. However, in reality this practice was declared correct and given P21 (complete investigation) and the detention of the suspect was continued by the public prosecutor.

There is a disparity in authority during arrest between BNN investigators and Polri investigators, creating legal uncertainty and violating the principle of equality before the law. For the suspects it will be more profitable if the arrests are carried out by Polri investigators rather than BNN investigators. A shorter period of time, will make Polri investigators more hasty developing inspection processes, testing urine tests, and sealing types of narcotics based on laboratory results.

In addition, the short arrest time minimizes the arbitrariness of the apparatus. During the arrest period the suspect has not received legal certainty whether he will proceed to the detention process or not, so that the longer period of arrest by BNN investigators creates a heavier psychological burden.

#### **There are drawbacks in granting BNN investigators too long arrest periods:**

- 1) The lengthy arrest period can be used by the apparatus to arrest as many other perpetrators as possible but precisely with the motive to get more money or to achieve the report target while on duty, even though it is not certain that the suspect has actually committed a crime. It would be too naïve if the existence of an "award" for investigators who excel as Article 109 of the Narcotics Law, actually becomes a motive to arrest as many people as possible regardless of a fair legal process, just for the sake of achieving high ranks and positions
- 2) The long period of arrest has opened up space for extortion or bribery and negotiations between officials and suspects who have been arrested. In several cases, there was often bargaining over the amount of money that had to be handed over to the authorities so that the suspect could be released
- 3) In cases of being caught red-handed, usually the suspect does not carry a lot of money. So the arrest period was used by the apparatus so that the suspect sought the requested amount of money. Or if they don't have money, the suspect is ordered as bait (swapping heads) to look for dealers or other actors;
- 4) There is also if the suspect's case is not terminated (further processed), bargaining occurs regarding the class of narcotics, the amount/weight of narcotics, whether the elements of the crime include the elements of possessing, storing, carrying, using, selling, buying, intermediary and so on -other. This is useful for suspects because for the process of continuing indictment and proof by the public prosecutor in court, of course, following matters that began with investigations

and investigations. Since the beginning, the description of the Minutes of Examination (BAP) and evidence has been arranged (planned) by the investigator so that the sentence against the suspect can be lighter;

- 5) Long arrest times can also open up opportunities for officials to embezzle narcotic evidence in order to store and then resell it. In addition, the lengthy arrest period opens up opportunities for the authorities to commit "abuse of power", torture or physical or psychological pressure during the interrogation process, forcing the suspect to confess. This is certainly contrary to the spirit of the criminal procedural law to provide a due process of law and respect for the principle of the presumption of innocence of a suspect;
- 6) In practice so far, investigators are often unfair in making arrest warrants, namely by writing the time or date backwards. The absence of formal administration at the earliest opportunity and the lack of awareness by the apparatus of fulfilling the human rights of suspects allows the neglect of suspects to the extent that the maximum limit for arrest by the apparatus can occur. The existence of an arrest period that is too long makes the apparatus linger even more so that unfair actions from the apparatus have the potential to occur.

Based on the matters above, the Narcotics Law, which provides for the authority to arrest by the BNN and its extension for a total of 6 x 24 hours, is considered too long so it is prone to arbitrariness officials and has the potential to violate human rights. The length of detention by BNN investigators must be reduced according to the international time limit, which is a maximum of 48 hours.

### b. Tapping

Wiretapping or the act of tapping can be interpreted as a process of deliberately listening to and/or recording other people's information secretly and wiretapping itself means a process, a method or an act of tapping. It can also be defined as the activity of listening to (recording) information (secret) or conversations of other people that are carried out intentionally without the knowledge of the person concerned [6]. According to Black's Law Dictionary, wiretapping does not use the term intercept but instead uses the term wiretapping. "wiretapping, A form of electronic eavesdropping, where, upon court orders, enforcement officials surreptitiously, listen to phone calls." (tapping is a form of eavesdropping electronically, where this action is carried out based on

a court order, which is carried out in secret and is carried out officially, by listening via telephone) [7].

According to the Elucidation of Article 31 Paragraph (1) of Law Number 11 of 2008 concerning Electronic Information and Transactions, Wiretapping or interception is an activity to listen, record, divert, change, inhibit and or record the transmission of electronic information and or electronic documents that are public in nature, either using wired communication network or wireless network, such as electromagnetic or radio."

Wiretapping or wiretapping is an act of eavesdropping on the communications of the parties which is carried out by using the addition of certain devices or attaching a communication cable channel to record (tapping) on telecommunication network facilities (wire communication) which generally use cables (wires) or home telephone lines [8].

Regarding wiretapping, Article 75 letter 1 of Law Number 35 of 2009 concerning Narcotics strictly stipulates: "In the framework of carrying out investigations, investigators from the National Narcotics Agency (BNN) have the authority to conduct wiretapping related to the abuse and illicit traffic of Narcotics and Narcotics Precursor after there is evidence quite a start."

Meanwhile, based on Article 77 paragraph (1) to paragraph (4) of Law Number 35 of 2009 it is also stated that:

- (1) Wiretapping as referred to in Article 75 letter is carried out after there is sufficient initial evidence and is carried out no later than 3 (three) months from the date the wiretapping letter is received by the investigator.
- (2) Wiretapping as referred to in paragraph (1) is only carried out with written permission from the Chief Justice.
- (3) Wiretapping as referred to in paragraph (1) may be extended 1 (one) time for the same period.
- (4) Wiretapping procedures are carried out in accordance with the provisions of laws and regulations.

Based on the two provisions above, wiretapping is possible to be carried out in order to prevent and eradicate narcotics crimes. In addition, it is necessary to emphasize that wiretapping must be carried out in accordance with predetermined procedures and procedures

<sup>6</sup> Departemen Pendidikan Nasional, 2008, *Kamus Besar Bahasa Indonesia*, Jakarta Balai Pustaka hlm 1337.

<sup>7</sup> Henry Campbell Black, M.A *Black's Law Dictionary With Pronunciations*, Abridged Fifth Edition, West Publishing Co, ST Paul, Minn 1996, hlm 825

<sup>8</sup> Edmon Makarim, *Op. Cit.* hlm 226.



The procedures and procedures for wiretapping are as follows.

- a. Wiretapping was carried out in the framework of investigation.
- b. The act of wiretapping was carried out by investigators from the National Narcotics Agency (BNN).
- c. Wiretapping is carried out in connection with the abuse and illicit traffic of Narcotics and Narcotics Precursors.
- d. Wiretapping can only be carried out after there is sufficient initial evidence.
- e. Wiretapping is carried out no later than 3 (three) months after the wiretapping letter is received by the investigator.
- f. The period of wiretapping can be extended 1 (one) time for the same period.
- g. Wiretapping can only be carried out with written permission from the Chief Justice.

Meanwhile, the laws and regulations that authorize the Indonesian National Police to carry out investigative and investigative actions by wiretapping communications from people who are suspected of committing, are or have committed a crime are regulated in several provisions.

Article 42 paragraph (2) of Law Number 36 of 1999 concerning Telecommunications which states emphatically that: "For the purposes of criminal justice proceedings, telecommunications service providers can record information sent and/or received by telecommunications service providers and can provide the necessary information on:

- a. A written request from the Attorney General and/or the Head of the Indonesian National Police for certain criminal acts;
- b. Requests by investigators for certain criminal acts in accordance with applicable laws.

Based on the provisions stipulated in Article 42 paragraph (2) of Law Number 36 of 1999 concerning Telecommunications above, it can be seen that for the

purposes of criminal justice proceedings, telecommunications service providers can record information sent and/or received by telecommunications service providers, and can provide information required for the benefit of the criminal justice process. However, this can only be done based on a written request from the Attorney General for the Attorney General who wants to wiretapping and/or the Head of the Indonesian National Police for Investigators who want to carry out wiretapping or based on requests from other investigators and this action is submitted for certain crimes or crimes that special in accordance with the law in force.

Then in Article 55 letter C Law Number 5 of 1997 concerning Psychotropics it is stated emphatically that: "Apart from what is specified in Law Number 8 of 1981 concerning Criminal Procedure Code, investigators from the Indonesian National Police can tap conversations by telephone and/or other electronic telecommunication devices. carried out by persons who are suspected or strongly suspected of discussing issues related to psychotropic crimes. The wiretapping period lasts for a maximum of 30 (thirty) days."

Then there are also wiretapping arrangements in the Regulation of the Head of the National Police of the Republic of Indonesia Number 5 of 2010 concerning Wiretapping Procedures, consisting of 4 major parts, namely procedures for wiretapping requests; implementation of wiretapping and monitoring operations; wiretapping results; and supervision and control of wiretapping actions.

Regulation of the Head of the National Police of the Republic of Indonesia Number 5 of 2010 concerning Wiretapping Procedures also stipulates that wiretapping operations are carried out with a wiretapping period of no longer than 30 (thirty) days, and if the information obtained is deemed insufficient, investigators and/or investigators may submit new requests. according to the needs of the investigation and/or investigation process.

**Table II: Comparison of the Duration of BNN Investigators and Polri Investigators**

NO	LEGISLATION	OLD
1	Article 77 paragraph (3) of Law Number 35 of 2009 concerning Narcotics	Maximum 3 months and can be extended for a maximum of 3 months
2	Article 11 Regulation of the Chief of Police Number 5 of 2010 concerning Procedures for Wiretapping at the Police Monitoring Center	Maximum 30 days and can submit a new request if it is not enough
3	Article 55 C Law Number 5 of 1997 concerning Psychotropics	Maximum 30 days
4	Article 42 paragraph (2) of Law Number 36 of 1999 concerning Telecommunications	Not specified

From a comparison of the wiretapping provisions that can be carried out between BNN investigators and Polri investigators, there is a difference regarding the length of time in conducting

wiretapping. If Polri investigators are wiretapping a narcotics crime it takes a maximum of 30 days and can submit another request (Article 11 of the Chief of Police Regulation No. 5 of 2010), Likewise wiretapping by

Police Investigators in psychotropic crimes takes a maximum of 30 days (Article 55 C of the Law Number 5 of 1997). While wiretapping can be carried out by BNN investigators for a maximum of 120 days (Article 77 paragraph (3) of Law Number 35 of 2009).

### 3. Model of Authority to Investigate Narcotics between BNN and Police of the Republic of Indonesia Based on Justice Value

The characteristics of justice based on Pancasila foster unity for the realization of justice in Indonesia. In accordance with the third principle of Pancasila, namely the unity of Indonesia, justice that is realized requires mutual agreement in determining between justice and injustice. The agreement requires unity in order to realize justice. The characteristics of justice based on Pancasila need to be realized with the same perception of the meaning of justice. The same perception requires unity in realizing justice. The principle of Indonesian unity fosters the same attitude and perception in interpreting the meaning of justice. Justice in the sense of equality, theoretically requires a common perception and point of view about the meaning of justice. The characteristics of justice based on Pancasila require a common perception of justice by fostering national unity and integrity.

The characteristics of justice based on Pancasila are in accordance with the fourth principle of Pancasila, namely democracy led by wisdom in deliberations/representation. This principle upholds the democratic state system in order to realize the justice desired by citizens through their representatives. With a democratic system, it is hoped that justice will be realized through representatives of the people in determining policies which of course provide justice.

The characteristics of justice based on Pancasila in theory state law requires a form of deliberation to realize justice. The deliberation manifests a government that is obliged to provide justice protection for citizens. The fourth principle of Pancasila provides the embodiment of democracy from the people, by the people and for the people in order to realize justice. Justice will be realized if realized by a clean government that prioritizes protection for its citizens in obtaining justice.

The characteristics of justice based on Pancasila are in accordance with the fifth principle of Pancasila, namely social justice for all Indonesian people providing fair equality for all Indonesian people. This equality provides a just and fair embodiment for citizens to get legal protection. This equal legal protection reflects legal protection to be treated equally before the law for all citizens in order to achieve justice.

The fifth principle of Pancasila is social justice for all Indonesian people. This equality embodies justice given to all Indonesian people in obtaining

justice. Justice is realized in the interests of all Indonesian people. This principle provides equal justice for all Indonesian people. The same justice is in accordance with the theory of justice, namely justice in the sense of equality. The protection of the government in realizing justice is no exception for its citizens in obtaining justice. Justice is given equally in accordance with the rights and obligations of citizens.

The characteristics of Pancasila justice are part of the form of justice in the form of principles in forming law. It is necessary to distinguish between legal justice and Pancasila justice. Justice based on Pancasila prioritizes human rights and equal protection before the law in its realization as the principles of law formation based on Pancasila. The characteristics of justice based on Pancasila in the form of protection of human rights and equality before the law, of course, cannot be separated from the principles of the five precepts of Pancasila. Justice based on Pancasila is processed from thoughts about five principles, namely Pancasila as the principle of law formation based on Pancasila justice which prioritizes human rights and equal protection before the law.

There are several characteristics related to justice based on Pancasila. Pancasila itself has the following characteristics or characteristics.

- 1) Pancasila as the only national philosophy. Owned by the Indonesian nation, other countries do not. Pancasila is the result of the original thinking of the Indonesian people which reflects the truth. As a guide in the life of the nation and state. The philosophy of Pancasila reflects the basis of the state in discovering the essence of truth which is a guide in life. The Indonesian people receive an abundance of grace from God Almighty with Pancasila so that the life of the nation and state can be established which reflects justice, benefit and protection. The grace revealed by God Almighty to the Indonesian people is a gift that is not given to other nations. So, pure Pancasila was born from the thought of our founding fathers/mothers in determining the direction of the nation's goals.
- 2) Flexible in the sense of being able to be placed in conditions of changing times. The flexible nature of Pancasila is proven that Pancasila is able to keep up with changing times from the Old Order period, the New Order period, and the reformation period until now. In following the development of the era, Pancasila is able to place the values contained in it as a guideline in the life of the nation and state. Changes in the period of government did not change the substance and values contained in Pancasila, but these substances and values were able to make a positive contribution in the era of government in various periods. This is where Pancasila can be called flexible because it is able to place itself in the changes and developments of the era in

accordance with the goals of national and state life.

- 3) The five precepts are a unified whole that cannot be separated. In interpreting the substance of Pancasila, it is an obligation that the substance of Pancasila cannot be separated. This prevents multiple interpretations of Pancasila from occurring. The full and inseparable meaning of the Pancasila precepts can lead to the same interpretation, the same goals and the same perception in interpreting Pancasila as a guideline for the life of the nation and state. It can be concluded that Pancasila is a unified whole, the precepts in Pancasila cannot be separated from one another because these precepts are interrelated and reflect positive values, one precept with the other precepts.
- 4) Pancasila is NKRI and NKRI is Pancasila because Pancasila and NKRI are an agreement that will not be changed. Pancasila exists because the NKRI and NKRI exist based on Pancasila. This shows the close relationship between Pancasila and the Republic of Indonesia. Pancasila and the Unitary State of the Republic of Indonesia are a unity that cannot be changed and need each other because Pancasila is the basis for the life of the nation and state in the Unitary State of the Republic of Indonesia (NKRI).
- 5) Able to provide a basis for justice in accordance with the style and culture of the Indonesian nation. Because Pancasila is recognized for its truth in a coherent, correspondence and pragmatic way, of course Pancasila has been recognized since Pancasila was born. Pancasila is recognized by many people and serves as a guideline for the Indonesian nation which has been recognized since ancient times until now. The truth is justice that comes from Pancasila, the truth can be recognized. Justice based on Pancasila is justice that really provides what is needed in the life of the nation and state, is able to provide protection for the rights and obligations of citizens and provides social justice for all Indonesian people.

The characteristics of justice based on Pancasila include the value of justice that originates from the precepts of a just and civilized humanity and the precepts of social justice for all Indonesian people which are the embodiment of the Unitary State of the Republic of Indonesia. The value of justice that emerges from the two precepts reflects the values of the other precepts. It can be concluded that the justice value of Pancasila is a reflection of a unified whole of the precepts contained in Pancasila which emerged from the embodiment of the Unitary State of the Republic of Indonesia (NKRI).

Justice based on Pancasila adheres to several principles which include justice based on Belief in One Almighty God, humanizing humans by prioritizing

Human Rights, namely the right to obtain justice, unity in realizing justice, justice can be acknowledged for its truth for all Indonesian people, and equal treatment before law.

In the reconstruction of the value of justice in the regulatory authority of the National Police and the National Narcotics Agency in the investigation of narcotics crimes, it cannot be separated from progressive law enforcement which underlies reform.

The idea or notion of progressive law enforcement appears as a logical consequence of the concept of progressive law. When progressive law is described at the praxis level, progressive law has an agenda to liberate law enforcement culture. So far, those in power have been seen as hampering efforts to solve problems and are no longer sufficient. Thus the concept of progressive law enforcement was born which was opposed to the concept of conventional law enforcement.

Progressive law enforcement emerged amidst the turmoil of the Indonesian nation which culminated in the reformation period, including the crisis in law enforcement. Comprehensive thinking is needed to find a way out of adversity. Implementing law in conventional ways does little to help efforts to get out of the legal crisis, even law enforcement seems to be running in place. This requires extraordinary efforts to eradicate Indonesia.

The idea of progressive law enforcement requires that law enforcement not only carry out statutory regulations, but also capture the legal will of the community. *hilai* who live in society. The idea of progressive law enforcement is an explosion from a stagnant or stagnant law enforcement situation.

The title of a progressive BNN investigator is also closely related to legal ideology and the ideology of BNN officials as law enforcers. How does the view of a BNN official regarding law and legal functions affect the value and quality of legal products and/or the settlement process they produce. Does the National Narcotics Agency see the law in terms of formal legality or also see what is in *metayuridis* or see the law from a *boloyuridis* perspective or view law as inseparable from its social relevance.

Certain preconditions are needed for progressive BNN officers to be tasked with carrying out legal mandates in a position as state apparatus who are obliged to uphold legal justice, so that when facing temptations and challenges they do not compromise with falsehood and harm the people. This is also related to the accountability of BNN officials to stake the interests of the state. The process of resolving BNN officials who have no value will result in the death of common sense.

Especially in the settlement of legal cases that are "high tension" or those involving high-ranking officials and conglomerates." In an effort to build accountable law enforcement, the quality of moral and juridical responsibility is demanded from BNN officials. For this reason, the factor of attitude transparency, in court behavior and legal behavior is important. So the existence of a dissenting opinion institution is also very relevant.

The role and duties of the National Narcotics Agency are not only as readers of letters in the laws made by the legislature. But in the process of resolving narcotics crimes, one has the responsibility to be the voice of common sense and to articulate the soul of justice in the complexities and dynamics of people's lives. Progressive BNN officials will use the best law in the worst circumstances.

Satjipto Rahardjo offered the need for the presence of Progressive Law under the motto of a law that is pro-justice and a law that is pro-people. Progressive law places the dedication of legal actors at the forefront. Legal actors are required to prioritize honesty and sincerity in carrying out the law. They must have empathy and concern for the suffering of the people and this nation. The interests of the people (welfare and happiness) must be the orientation point and the ultimate goal of law enforcement.

In progressive law, the process of change is no longer centered on regulations, but on the creativity of legal actors actualizing it in the right space and time. Progressive legal actors can make changes by making creative interpretations of existing regulations, without having to wait for changes to regulations. Bad regulations do not have to be an obstacle for progressive legal actors to bring justice to the people and justice seekers, because they can interpret it in an arbitrary way. each time against a rule.

According to Bernard L. Tahya, the reforms offered by progressive law require a model or framework that can guide them in carrying out this progressive law. Without clear guidelines or models that serve as platforms it is difficult for progressive legal forces to be unified in one commitment. Without a unified commitment, directed reform steps are difficult to realize, it is not even impossible that individual initiatives of a legal actor can become wild and arbitrary. and the spirit of harming the interests of the people; (ii) in progressive law there is a spirit of resistance and rebellion to end legal paralysis through the creative and innovative actions of legal actors and (iii) the presence of an example or model will unite progressive legal forces on an action platform because

exemplar always provides the three pieces of software a movement needs [<sup>9</sup>].

The three softwares include: (i) the ideological foundation that underlies the movement being fought for; (ii) Issues considered relevant and important to be fought for and worked on; (iii) Appropriate and effective methods or procedures to solve the problem in question. The clarification of these three points, in theory, will glue the potential forces of progressive law into one agenda and line of struggle. In this way, the hope of uniting progressive legal forces as called for by Rahardjo will more easily be realized.

The presence of wise and creative legal actors is absolutely necessary to guide a creative interpretation of legal rules. A progressive legal actor seeks and finds justice within the limits and amidst the limitations of existing legal norms. That is also why, the ingenuity and wisdom of legal actors to explore the spirit of a regulation, as well as the ability to determine precisely the priority of a social interest/need that must be served by law, is a key benefit of progressive law.

Progressive legal practices rely more on the wisdom of legal actors, namely BNN officials, police, prosecutors, judges and advocates in interpreting the law here and now. BNN officials, police, prosecutors, judges and progressive advocates are actually the spearheads of the struggle for progressive law. To realize the law they must act as a creative lawyer. It is from them that it is hoped that a process of resolving narcotics crimes of 'jurisprudential' quality (quality decisions worthy of reference) will be realized to guide progressive legal change. Without this guide, progressive law will be difficult to materialize. In the midst of most people (including law enforcement officials) being dominated by a pragmatic-naive attitude, it is possible that the freedom granted by progressive law is misused to run against the law itself for the sake of an evil.

Regarding the reconstruction of the authority to investigate narcotics crimes by the Police and BNN based on progressive law, the provisions of Article 75 and Article 80 of Law Number 35 of 2009 concerning Narcotics show that the authority of the National Narcotics Agency is very broad, so it is possible that it will collide or clash with the authority owned by other law enforcement institutions such as the Indonesian National Police.

The authority of the National Narcotics Agency which is too large, such as in detention and searches according to Law Number 35 of 2009 concerning Narcotics, turns out to be not the same as the authority given to police investigators and civil

<sup>9</sup> Bernard L.Tanya, 2005. *Hukum, Politik dan KKS*. Surabaya: Srikandi. hlm. 6

servant investigators. This difference has the potential to cause institutional problems and institutional egoism among law enforcement agencies.

The issue of authority can become an institutional polemic that deserves attention. Authority concerns the issue of institutional integrity and there are always efforts to prevent the reduction of power. Reduction of power can lead to a wrong perception of the institution that receives the reduction. Institutions can be considered incapable and incapable of exercising the powers conferred by law and are even considered to have never provided adequate accountability in accordance with the expectations of society.

Law Number 35 of 2009 concerning Narcotics and Law Number 2 of 2002 regarding the Police of the Republic of Indonesia can be critically said to contain weaknesses, namely they do not provide limits to the powers of each law enforcer. When is a narcotics crime case handled by the National Narcotics Agency and when is a narcotics crime case handled by the Indonesian National Police.

Investigators for narcotics crimes based on Law Number 35 of 2009 concerning Narcotics are investigators from the National Narcotics Agency and Investigators from the Indonesian National Police. The investigative authority of each of these investigators does not differ in relation to the object of the investigation. The law does not divide which criminal acts of narcotics and narcotics precursors are handled by investigators from the National Narcotics Agency and investigators from the Indonesian National Police. This has the potential to cause overlapping in the investigation of narcotics crime cases. Andrianus Meliala said that between the Indonesian National Police and the National Narcotics Agency a clear division of labor was needed, with the aim that the public would not be confused as well as become a differentiator regarding the quality of performance of each party. In the future, both of them need to make a differentiation whether in the form of peculiarities of the method of arrest, object of capture, specialization of confiscated drugs and so on. 17 Narcotics crime investigators have the authority to reveal the abuse and illicit trafficking of narcotics will certainly have a good impact on eradicating narcotics crimes which are increasingly trending. increasing both quantitatively and qualitatively with widespread victims, especially among children, youth, and the younger generation in general. Nevertheless, on the other hand, it is not impossible that it will lead to dualism in the settlement of narcotics crimes because each investigator feels entitled to conduct an investigation which is not impossible in the end will harm or hinder the process of eradicating narcotics abuse and illicit traffic. As a result of this dualism, it is not impossible for overlapping and power struggles to occur. This is inseparable from the struggle for the achievements of each investigator because

narcotics crimes have quite strategic value both in the context of pursuing a career or related to the high economic value of narcotics abuse and illicit traffic. Therefore, an effective and efficient mechanism must be created, so that unfair competition can be kept to a minimum.

The existence of the National Narcotics Agency with its authority has made the National Narcotics Agency a super body in preventing and eradicating narcotics abuse. This large portion of authority can cause jealousy between Investigating agencies. The authority of the National Narcotics Agency as stipulated in Article 75 and Article 80 of Law Number 35 of 2009 concerning Narcotics, creates ambiguity whether this authority is also owned by investigators from the Indonesian National Police who are also authorized to conduct investigations into the abuse and illicit trafficking of narcotics. The articles referred to above clearly state that this authority belongs to the investigators of the National Narcotics Agency, namely investigators who are appointed and dismissed by the head of the National Narcotics Agency.

#### **D. CONCLUSION**

The authority to investigate narcotics crimes between BNN investigators and Polri investigators is unequal, causing problems in ineffective law enforcement. The concept of authority to investigate Narcotics crimes is firm between BNN investigators and Polri investigators in realizing the effectiveness and efficiency of investigations into narcotics crimes, the legislators immediately reviewed the position of the National Narcotics Agency (BNN) in Law Number 35 of 2009 concerning Narcotics to be made a super institution body or dual leading in the investigation of narcotics crimes, because in fact so far before and after Law Number 35 of 2009 the Polri institution was at the forefront and superior in the investigation of narcotics crimes, therefore Law Number 35 of 2009 concerning Narcotics needs to be reconstructed so that it is based on values Pancasila justice, so that there is equality of authority to investigate narcotics crimes between Polri investigators and BNN investigators, reinforce the limits of authority to investigate narcotics crimes between Polri investigators and BNN investigators, and perfect the concept of coordinating narcotics crime investigations between Polri investigators and BNN investigators.

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