

# **Review of the Disparity of Judges' Decisions in CasesNarcotics Abuse**

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# A B S T R A C T

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A R Q I CLEINFO

©2023 Purnomo, Dewi: this is an open- access article distributed under the terms of the <u>Creative Commons</u> <u>Attribution 4.0 International</u>. Criminal disparity is unequal sentencing which is dangerous in nature compared to without a clear justification. Judge's decision in juvenile criminal cases, in practice there is a disparity in sentencing. Therefore, the issue of sentencing is not only important for judges and the judicial process, but also for the legal process as a whole, especially in terms of law enforcement. Where in this case raises different criminal penalties among the children of the perpetrators of these crimes. Decision disparity cannot be separated from the judge's discretion to impose a sentence in a criminal case. a case. The approach to be used is a Juridical Sociological approach

### INTRODUCTION

### A. Background

In Indonesia, cases of narcotics abuse, especially among teenagers are increasing. Young people who have been exposed to opium narcotics are vulnerable as long-term users because of their age Which still young and have time Which long enough

World Drugs Reports 2018 published by the United Nations Office on Drugs and Crime (UNODC), mention that as much 275 million resident in world or 5.6% of the world's population (age 15-64 years) have ever used drugs. Meanwhile in Indonesia, the National Narcotics Agency acts as the focal point in the field Prevention and Eradication of Drug Abuse and Illicit Trafficking (P4GN) collects data drug abuse rate in 2017 as much 3,376,115 person on range age 10-59 year. <sup>4</sup> Body Narcotics National (BNN) cooperate with Center Study Health University Indonesia conducts regular surveys of drug abusers Which in matter This fixed to para student school nor student incollege tall on year 2006, 2009, And 2011. Survey done Foridentify usage trends drugs every year. As much 38,663 students in 607 schools/campuses were involved. The survey was carried out in various urban and rural areas in selected provinces including NAD, North Sumatra, Riau Islands, Jambi, South Sumatra, DKI Jakarta, Java West, Java Middle, Java East, West Kalimantan, Central Kalimantan, South Sulawesi, North Sulawesi Yes, NTT, Bali, West Papua. The survey results say that the number of abuse more dominant in men than women, as well as the higher the age respondent the more increase number abuse drugs. <sup>5</sup> Circulation substanceNarcotic addiction is very difficult to stop. especially those who abusedrugs, they do not look at the elements of race, age, religion and even gender sex. If they has proven use narcotics class 1 then they should be caught in a criminal case as has been enacted in Article 127 paragraph 1 of the Narcotics Law, the contents of which state that every person who has violated the Article or every person who proven use narcotics must punished. <sup>6</sup> In narcotics there is several types of categories regulated in Article 6 of Law Number 35 Year 2009 about Narcotics. Any drug abuse:

- 1. Narcotics class I for self Alone convicted with criminal prison most long 4 ( four ) year ;
- 2. Narcotics class II for self Alone convicted with criminal prisonmost long 2 ( two ) year
- 3. Narcotics Category III for oneself shall be punished with a maximum sentence of I(one year)

As an effort towards a democratic and obedient state law Which apply in something country, public in Indonesia in matter Thisneed role apparatus Country in effort realize enforcement law that is just, orderly and welfare-oriented "such conditions as efforts to increase certainty, awareness, order, and welfare in framework maintenance Country Which more orderly and regular. Indonesia Which is Country democratic And Also as The rule of law in which there is a criminal law whose contents are rules - written rules that have been compiled, created and promulgated in order to be applied to the real life of society law positive, and will be effective and can be felt to achieve justice and legal certainty if its application is in accordance with what is intended by the creators of the Law regarding what has been contained in sentence - that sentence.

Task a judge in drop Decision criminal have freedoms that must be in accordance with the 1945 Constitution, also when a judge makes a decision, they are required to be held accountableanswer for the decision to God the almighty. follow horn judge in something process court becomeWrong One reject measuring main For see succeed or No his process law enforcement, that is embodied in its Decision. so deep this matter can be a barometer of whether or not laws and regulations are enforced. However in practice his principle – principle Justice No always consistent applied And held so that in matter This cause happening gap in Judgment on para perpetrator criminal act .

A number of matter Which happen in world law, there is difference Which striking against the imposition of criminal verdicts against the perpetrators of criminal acts in the same case, in this case referred to as criminal disparity. with exists disparity criminal This become topic Which very interesting for researched more in, especially diparity punishment deep case follow criminalnarcotics.

because based on the survey that has been described above earlier still lots of cases of drug abuse from various circles and effects Which occur as a result of use of hazardous substances the.

# **B.** Formula Problem

Based on the description and background above, what becomes tree the problems in this writing are:

- 1. Factors that cause disparities in sentencing.
- 2. Base consideration judge in drop Decision Which raises disparity.

#### LITERATURE REVIEW

### 1. Factor Reason Justice Disparity Criminal

According to Muladi and Barda Nawawi, the cause of the criminal disparity (Judge's decision) starts from the law itself. In positive criminal law In Indonesia, judges have very wide freedom to choose types criminal (strafsoort) Which desired, in connection with use system alternative in menace criminal in the Constitution.

According to the author, based on the sentence, criminal disparity is a form of injustice by justice seekers by judges. Public for sure will compare the verdicts of judges in general and find disparities law enforcement in Indonesia, where disparities in sentencing Also tend related with independence judge. Modality punishment Whichgiven by Constitution (arrangement penalty criminal maximum) Also contribute. No party may interfere with the judge in taking decision. UU no. 48 of 2009 concerning judicial power obliges judge for dig, follow, and understand values law and flavorjustice in public. Judge Also must consider diversityand evil nature Defendant. Another factor that causes disparities in criminal justice besides from a legal point of view it can also be caused by a judge, whether this happens because factor internally as well suitable external with explanation below This.

- a) Factor internal from judge Alone especially about professionalism And Integrity focuses on handling cases with a clear goal of punishment to be achieved, then the same punitive action will be imposed with punishment Which different. So from That, can said that the difference in punishment arises from the law itself and freedom Decision by judge, though freedom judge acknowledged by law And matter This needed to ensure fairness.
- b) External factors that give freedom for judges to impose Decision Which sourced on Constitution.
  Fill in in Chapter 24 (1) Constitution 1945 give base law for power judge power justice is power Which independent in framework organize justice And enforce law. Provision This ensure freedom institution Justice as body independent, including between in matter freedom judge For operate his job.

The judge is free to choose the type of crime, because there are several types of crime who are subject to crimes under criminal law. it can be seen that Article 12 paragraph 2 of the Criminal Code states that the minimum prison sentence is 1 (one) day andlongest 15 (fifteen) consecutive years. in paragraph (4) Imprisonment for period time certain No Once Possible more from 20 (two twenty) year. The same situation Article 18 (1) of the Criminal Code stipulates that, the maximum imprisonment short 1 (One) day And most long 1 (One) day year, whereas Chapter 18 paragraph3

Criminal Code stipulates that imprisonment may not exceed 1 (one) year 4 (four months. Article 30 of the Criminal Code regulates the minimum maximum fine 3 (three) rupiah 70 (seventy) cents. If the fine is not paid and he is replaced with imprisonment and imprisonment in lieu of a fine at most short 1 (one) day and most long 1 day six (six) months.

Internal and external factors have the above interrelated things, both because context influence background social background, education, experience, religion, background behind the actor and how to commit a crime. Of course there plays important role in determining the seriousness of a crime. With developments era and technology, the more Lots There is Lots factor Which causedisparity criminal.

Apart from the factors described above, there are also disparities can happen because factor type sex, recidivism or because byfactor age, for example on case below:

- When a woman do follow criminal so woman the tend given penalty light And seldom very convicted dead. As for example when a biological mother abuses her child and ends on matter Which No wanted so punishment Which given for women this tends to be light because those who commit crimes are Mother biological his Alone.
- 2) Then the disparity factor that occurs in recidivists (people who ever been convicted) also affects the severity or lightness of the sentence given by the judge to the Defendant. This too can be a factor which led to disparities in criminal justice, although two the person or perpetrator has committed the same crime is then prosecuted with Chapter Which same but you can different in Decision.
- 3) Wrong One factor other Which cause happening disparity is age.

Criminal imposition of (*young offender*) young offenders in criminal matters it will be lighter. This has been regulated in Article 27 of the Criminal Code which contains:not enough more that is if judge give drop criminal to child under the age of 16 (sixteen) years, the maximum penalty for deed reduced by one third, then imprisonment for a maximum of 15 years against criminal acts punishable by death or life imprisonment, also the additional punishment mentioned in Article 10 sub b, number 1 And 3 cannot be dropped.

Section 45 of the Criminal Code includes another option for judges, namely in the form of a system prosecution for perpetrator aged in lower 16 (six mercy) year For return perpetrator violence to person old, guardian or guard, withoutany crime, that is, if the act constitutes a crime or one of the violation listed on Chapter 489, 490, 492, 496, 497, 503, 505, 514, 517-519, 526, 531, 532 and 540 of the Criminal Code and also two years have not

passed since convicted of a crime or one of the crimes mentioned above, the Judgment become still or drop criminal.According explanation in on, when investigating the root cause of criminal justice disparities is that law Alone, that is form provision penalty Which poured in Regulation area applicable laws and regulations as well as existing internal and external factors on judge. Matter the No Far from experience judge when give punishment against the Defendants. So the higher the judge's flying hours so the judge will be wiser.

#### METHODOLOGY

# 1. Method approach

The method used in this study is the Juridical method sociological. Method juridical sociological refers on method describe description data Which is at in place according to principle applicable laws, legal principles or statutory regulations, methods related to the problem under study, then proceed using original data. This research was conducted through observation and interview. So that in this study it is more appropriate to use sociological juridical, because in the formulation of the data problem Which can be more accurate.

2. Method research specifications

On moment study This done, seen that study Whichused has the nature of descriptive analysis. descriptive research, namely research for give data Which meticulous Possible about man, circumstances or symptoms – symptom certain

# **RESEARCH RESULTS**

# **Theory Punishment**

Happening a number of theory Which born from a number of thinking on Regarding the purpose of sentencing, the theory is divided into 3 parts as follows will the author describes below:

# 1) Theory Absolute or Theory Retribution (Vergeldings Theory)

This absolute theory justifies sentencing done because someone has commit a crime, Immanuel Kant supports this theory saying "*Fiatjustitia shaky coelum*" (although Tomorrow world will doomsday, However criminal final must operate the penalty). kant support theory This based on moral. Then there is other support related to this theory, namely Hegel whosay that law is exists from A independence, whereas something crime is A challenge for law and justice. Therefore evil must be burned. This revenge theory in in his Again divided into 2 kinds, that is:

a. The theory of objective retaliation: This theory is oriented towards the

satisfaction of feelingsrevenge, especially among the people, in this case the actions of si the perpetrators of crime must be rewarded with punishment which is a form of suffering Which balanced with calamity Which caused by the criminal.

b. Subjective retaliation theory: this theory is more aimed at someone who have committed a crime. According to this theory, when someone does crime so for this act a person must be punished.

Hegel who is one of the figures who justify the theory argue that criminal is something valid in range give consequence of a criminal act. Because of a crime is a violation of the law in a country. So from it'scriminal called "*Negation Der Nagetion*" (negation or denial to denial). Opinion from a bachelor the on is base on *"The Philosophy of Vengeance"* or philosophy retribution in di in search basic justification of punishment.

# 2) Theory Relatively or Purpose (*Utilitarian/Doeltheorieen*)

This theory contains the basis of a view that the intent of punishment is effort from protection to public And Alsoas a preventative measure so that it does not recur. One of figure who advocated this theory is Paul Anselm Van Feurbach, he argue that give threat form criminal just No Enough but there must be direct criminal enforcement efforts. the purpose of this theory is "*quia peccatumest* " (Because person do crime) but " *ne peccetur* "(so that people do not commit crimes) which is also the base justification for this theory. Andenaes says that this theory is (*the theory of social defense*) theory as a protector of society because of its purpose No Another is to protect the public interest.

# 3) Theory Combined (Vereningingsheorieen)

Beside from second theory Which has explained on There is theory third that is theory combined (*vereningingsheorieen*). Leader from theory This is Rossi (1787 - 1884). This theory is called a combined theory because Rossi considers it that even though retaliation is included in the criminal principle and its severity criminal No can exceed something retribution Which fair, However He own the belief that punishment can fix something which has been broken in public. In theory This combination is divided into two parts Which Enough big, that is:

- a) The theory leans more towards retaliation, but retaliation is frowned upon must not exceed its capacity and hope it can be maintained by Tataorderly in society.
- b) The theory that puts forward the protection of social order, however the punishment given should not be greater than what has been done by convict.
- 3. Types Punishment

When it comes to sentencing, there are two things that can't be done separated ie crime And punishment. When A body form regulation Which inside it got rule and prohibition, p the no Enough For awaken and give knowledge to like for door leave something action. For That he needed Apunishment for the offenders. In Article 10 of the Criminal Code has been formulated types punishment.

a) Criminal tree

The main punishment that has been stipulated in the Criminal Code can be summarized as: following:

1. Criminal dead

Among other types of punishment contained in the Criminal Code, death penalty is the heaviest sentence listed because of the implementation of the death penalty carried out in the form of deprivation of the right to life, so many opinions are pro and counter to determination criminal dead in circles expert law And public. It has been argued that the death penalty was justified under the circumstances certain, namely if the actions of the offender show that he is a person who very dangerous for the public interest. Therefore, to stop crime requires a strict law that is the death penalty. From that point of view This clear that objective No direct from crime is destruction. View other is that punishment dead Actually No need Because has the disadvantage that if done does not give hope of improvement, Good For crime nor for repair That Alone. Because Wrong One the purpose of crime is to educate or provide *deterrence* to the perpetrator not repeat the crime. The implementation of capital punishment is regulated in the Law Invite Number 2/PNPS/1964 about system method implementation criminal Whichdropped by an ordinary court and court military.

2. Criminal prison

Imprisonment is a criminal form of loss of freedom. Criminal imprisonment in the form of temporary confinement for a minimum of 1 day up to life imprisonment. Life imprisonment is only listed in matter criminal dead or criminal prison lifetime life or criminal prison twenty year. So, in a manner general, punishment maximum is 15 year. Chapter 12Criminal Code arrange:

- 1. Prison sentences can be sentenced continuously for twenty years, and a judge can choose the death penalty, life imprisonment, imprisonment time certain, or prison time certain; likewise, if limit five fifteen years may be exceeded due to approval, repetition (*residive*) or Because Which has been specified in Article 52.
- 2. criminal confinement good imprisonment nor imprisonment is form

punishment Which deprive freedom individual for do crime based on Chapter 22 Criminal Code. Criminal prison can dropped by judgeas the main offense, but can also be used as a substitute for finesnot paid by the offender. Substitute punishment fine, start from at least one days to a maximum of six months. However, imprisonment is a substitute for fines can be extended for a maximum of eight months if the perpetrator commits an act criminal Which related with follow criminal as meant inArticle 52 of the Criminal Code. If the violator does not pay the fine, that is if the judge is inthe punishment only drop fine And No mention thatthe convict must serve imprisonment as a substitute for fines Which dropped, in matter convict No pay Money fine Which concerned.

- b) Criminal addition
- 1. Repeal right certain

Revocation is not the same as the term dismissal, as well as terms dismissal. The term revocation is a statement that there is no right against someone. While the terms of dismissal or termination of rights or the duties of a superior or leader of a convict, this is regulated in Article 227 of the Criminal Code " Whoever uses a right, that right has been revoked by the judge, sentenced to imprisonment for nine months or fine as much – many IDR 9000."

- 2. Deprivation goods certain
  - Deprivation goods certain is follow criminal foreclosure goodsonly certain, not for all goods, the law does not recognize confiscation all treasure object. Constitution No know deprivation for all riches.
     <sup>37</sup> Chapter 39 Criminal Code explain What Which Can confiscated, that is:
    - a) Item produced or obtained Because crime;
    - b) Item intentionally used in crime.
  - 2) Announcement Decision judge usually called with (voorwaardelijkeveroordeling), but this is not a crime, because Article 10 Criminal Code No determine matter This. However, system drop criminal certain (eg prison, confinement, And fine) Which arranged in criminal Which being sentenced to a sentence does not need to be carried out by imposing the conditions condition particular, by Because That penal terms are used conditional.

#### DISCUSSION

Factors that cause disparities in narcotics convictions that is in in something the judge Assembly judge will make consideration law, Which clear something Decision That must reflects fairness, legal certainty and expediency. When There is demands from prosecutor general Which demand two Defendants with different charges in the sense that one entered prison and the other in rehabilitation, where the panel of judges must observant related to what underlies the public prosecutor to do demands that Defendant This in criminal prison or rehabilitation, sometimes Assembly judge Can The same with prosecutor general because based on the facts that occurred in court, however Can Also Assembly judge different with prosecutor general Which caused Also by facts at trial, as example Defendant has an assessment from the police regarding the results of the examination by the competent authority and by the other Defendant notthere is assessment so things like That Which is factor the cause of its occurrence penal disparity narcotics

Then besides from on factor Which has explained above there is several other factors that cause disparities in sentencing narcotics that is;

a. Factor Belief a Judge in The The Judge

Is precondition that should There is when judge want give birth to a decision that is the conviction of the judge. In this case a judge may not disconnect something case Which solely lean self on fact orfactual circumstances that occur in a case, but a judge must true, true use his beliefs to various fact And circumstances The objective is that the Defendant is indeed guilty. <sup>54</sup> When making or dropping verdict belief judge still needed, will but although No there is prohibition for a judge in a criminal case, the judge is not justified indecide criminal cases based solely on their convictions ignoring the evidence presented at trial. The judge's belief factor here's what can cause happening sentencing disparity.

b. Factor No Exists Guidelines In Punishment

Disparity in matters follow criminal narcotics Which happen in Indonesia is one result of the absence of sentencing guidelines (*sentence guidelines*) for para judge. Different with guidelines in drop criminal like Which owned by America Union (video: Table Guidelines for Criminal Justice in the United States of America in chapter IV), in Indonesia itself does not have specific guidelines that are standard for internal judges process give a verdict or criminal convictions.

though no arranged special in the KUH Criminal about guidelines punishment. There are several parameters that can be used as guidelines by the parajudge in the process of imposing a sentence in a narcotics case. It exists the concept of the 2005-2008 Criminal Code Bill in which there are Articles 55 and Article 56. Then from the two articles it can be seen that there are guidelines for judge in drop criminal. However matter This No close possibility still happening sentencing disparity.

c. Factors From Independent Judicial Authority Granted by Law Act

Wrong One Also factor Which become reason disparity is exists independent judicial powers granted to judges. Authority the court has been regulated in Law No. 48 of 2009 which contents regarding judicial power and also serves as a guide for internal judges carry out their duties in deciding criminal cases. According to Scheltema all decision to matters in the judge Which disconnected independently something base for law Which effective. Matter This aim for ensure that government No follow mix in affairs judge whendrop something. the power of an independent judge is a the basis of judges in imposing criminal offenses against the perpetrators of general crimesand also narcotics crimes that function in the context of creating a system law well. Everyone will get a guarantee that the government will act in accordance with applicable law, then on the basis of that law In effect, the judge has power independent and free in process dropping of a case submitted to the Panel of Judges. Andy Hamzah argues that the factors affecting independence, independence and freedom judge is factor political, factor economy, factor social and low level of knowledge and skills of judges. Political factors, eg the interests of the authorities or certain people, trying to influence independence judge's trial, and economic factors such as the judge's salary also determine whether the judge makes the decision Which independent.

According to Muladi and Barda Nawawi, the cause of the criminal disparity (Judge's decision) starts from the law itself. In positive criminal law Indonesia, judge have freedom Which very wide For choose type of crime (*strafsoort*) Which desired, in connection with use system alternative under criminal sanctions in the Constitution.

According to the author, based on the sentence, criminal disparity is a form of injustice by justice seekers by judges. Public for sure will compare the verdicts of judges in general and find disparities law enforcement in Indonesia, where disparities in sentencing Also tend related with independence judge. Modality punishment Whichgiven by Constitution (arrangement penalty criminal maximum) Also contribute. No party may interfere with the judge in taking decision. UU no. 48 of 2009 concerning judicial power obliges judge for dig, follow, and understand values law and flavorjustice in society. Judge must also consider diversity and evil nature Defendant.

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- b) External factors that give freedom for judges to impose Decisions based on law. In Article 24 paragraph (1) Constitution 1945 give base law for power judge power judiciary is an independent power in order to administer justice and enforce law. Provision This ensure freedom Judicial institution as an independent body, including among other things freedom judge to carry out his duties.

The judge is free to choose the type of crime, because there are several types of crime who are subject to crimes under criminal law. it can be seen that Article 12 paragraph 2 of the Criminal Code states that the minimum prison sentence is 1 (one) day and longest 15 (fifteen) consecutive years. in paragraph (4) Imprisonment for certain period of time may never be more than 20 (twenty) years. The same situation Article 18 (1) of the Criminal Code stipulates that, the maximum imprisonment short 1 (One) day and most long 1 (One) day year, whereas Chapter 18 paragraph 3 Criminal Code stipulates that imprisonment may not exceed 1 (one) year 4 (four months. Article 30 of the Criminal Code regulates the minimum fine 3 (three) rupiah 70 (seventy) cents. If the fine is not paid and he is replaced with imprisonment and imprisonment in lieu of a fine at most short 1 (one) day and most long 1 day six (six) months.

internal and external factors have the above things are interrelated, both because influence context background behind social, education, experience, religion, actor's background and how to commit the crime. Of course there plays important role in determining the seriousness of a crime. With developments era and technology, the more Lots There is Lots factor Which causedisparity criminal.

**1.** Base consideration judge

follow criminal is deed Which forbidden by regulation legislation invitation, Which accompanied with threat (penalty) a number of form criminal<sup>58</sup>, to Who just Which violate rule the. So Which felt public Actually is violation justice, example: murder, drug use. Such offenses are called "crimes" (*mala perse*). The application of criminal sanctions or sanctions in criminal law is a detriment that must be received as compensation for the actions of the perpetrators of criminal acts Which harm victim and public. Objective law criminal is forprosper society. Therefore, the identification and application of sanctions must considered Serious.

"In the disconnect something case Assembly judge will make legal considerations. Which towards a Decision must reflect flavor justice, certainty law and expediency. When disconnect case, sometimes a judge may have the same verdict as the demands prosecutor general if Defendant by prosecutor general demanded For enter prison the judge can also decide with the same decision, namely going to jail, however Can Also Decision judge different with demands prosecutor general Which where when the prosecution general demand to Defendant that Defendant must be on prison will but results discussion Assembly judge decide that The accused can be rehabilitated for various reasons, the judge as an exampleit turned out that the Defendant had the results of an assessment carried out by an official who authorized on moment inspection level investigation that Defendant This used new narcotics once and knew that the Defendant was included blame To use narcotics Which dependency or No. Here showing that facts in the judge very that's it influence to results Decision."

The public's negative view of judges is also an obstacle for a judge in imposing a verdict on narcotics cases especially in terms of differences in the verdict given by the judge to the Defendant in One case Which The same that is narcotics, there is Lots *variables* Which make consideration for Assembly judge in disconnect case Which then from that thing that can later cause differences the results of the Decision between one Defendant and another Defendant or in writingThis matter the named with term disparity. With thereby because most people still don't believe in anything which has disconnected by judge is Decision Which Already fair or Not yet. However with If there are obstacles, the judge must still decide in accordance with the regulations applicable laws and beliefs that exist in the judge. Respond will matter the in framework create something power an independent judiciary, then the application of the principles of a democratic judiciary must be developed. This is done to prevent public interference Which can suppress the freedom of judges in drop Decision.

As for the principles of democratic justice, according to Bagir Manan there is 4 parts that is:

- Principle presumption not guilty (presumption of innocence), matter This cause not to form an impressionable public opinion that Defendant guilty;
- Prohibition of trials by the press (trial by the press), not infrequently the courts by violating personal rights and civil death or homicide character against someone even against his family;
- 3) Principle fairness, Which contain meaning No just load the judge's responsibility to act honestly and impartially, however also implies that each party to the litigation (including Defendant) have chance Which The same For calm case. Justice is not only public rights or victims' rights, but also their rights Which expected guilty or moderate on trial;
- 4) The principle of freedom of judges, this freedom includes freedom from indecision and fear of judges as a result of pressure public either in the form of destroying the courthouse or persecution Which referred to judge.

So in the explanation of the four points above can be understood that a judge must be independent or in other words the judge must be free of any thing threats caused by the profession of a judge in disconnect something case. Power justice Which independent Also become the guarantee of the judge in deciding the case without any interference from the parties from outside the court. presence of judges free and impartial in criminal justice process is a determinant in the realization of the justice system criminal Which become state characteristics law.

# CONCLUSIONS AND RECOMMENDATIONS

The following are the results of the research in accordance with the problems listed above

1. There are several factors that cause disparities in sentencing In narcotics cases, these factors include the consideration of the panel of judges when deciding the case, with the facts in the trial the judge has the right disconnect Defendant is Defendant sentenced criminal prison or rehabilitation.Matter This in accordance with law Number 48 Year 2009 Where judge have full power on judge Defendant without exists pressure from any party. Apart from the judge's consideration factor, there are also other factors Which become reason it happened disparity

yea results a DefendantWhich Can prove that exists results assessment from institution Which authorities Which Then from there the jury can do consideration.

- 2. Judge must prioritize guidelines and belief in regulationapplicable laws and regulations, and when criminal charges are filed to perpetrator follow criminal narcotics with see so far where crime Which done by Defendant, no do it differentiate- differentiate in imposing a decision or being affected by a party other so that different in dropping Decision.
- 3. The government should be able to legalize related special courts with narcotics in order to be convicted of narcotics in Indonesia can be clear directed through legal basis Which exists and fulfills the elements of justice and benefits.

# ADVANCED RESEARCH

We hope that further research will be useful for the world of Indonesian law and justice.

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