Procedure for Destruction of Evidence of the Crime of Narcotics Abuse Based on Formal Law in Indonesia

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Abstract

Extermination of narcotics evidence is further regulated in Government Regulation of the Republic of Indonesia Number 40 of 2013 concerning Implementation of Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics, namely as a form of procedure for destroying narcotic evidence which is destroyed according to its type. Regulation of the Head of the National Narcotics Agency of the Republic of Indonesia Number 7 of 2010 concerning Technical Guidelines for Handling Confiscated Narcotics, Narcotics and Other Chemical Substances Safely, explains that the destruction of narcotics evidence, including marijuana is destroyed through the steps that have been set out therein. This regulation becomes a standard rule that must be implemented by the parties carrying out the destruction of confiscated evidence. This research is a type of normative legal research by means of literature study where the data is sourced from secondary data in the form of primary and secondary legal materials. Based on the results of the study, it is known that based on the hierarchy of regulations the procedures for destroying narcotics evidence are based on Article 91 and Article 92 of Law Number 35 of 2009 concerning Narcotics. Destruction of narcotic evidence is carried out before a court decision is made based on the determination of the local District Attorney's office and destruction after a court decision is based on an order of a judge's decision. Regarding the technical guidelines for destruction, the hierarchical stages of the destruction procedure are regulated in the Regulation of the Head of the National Narcotics Agency of the Republic of Indonesia Number 7 of 2010 concerning Technical Guidelines for Handling and Destruction of Confiscated Narcotics, Narcotics Precursors and Other Chemicals Safely.

Keywords:
Destruction of Evidence, Narcotics, Formal Law.

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A. Introduction

The definition of Destruction in the current legislation in force in Indonesia is a series of actions to destroy confiscated goods either by burning, using equipment, or other means with or without using chemicals, as a whole, including stems, leaves, flowers, seeds, roots, and other parts in the case of Narcotics in the form of plants, so that confiscated goods, whether in the form of plants or not, no longer exist.¹

The term 'annihilation' comes from the word 'destroyed' which is usually synonymous with the word destroyed, completely destroyed. In the Big Indonesian Dictionary defines annihilation as the process of destroying an object so that there is nothing left to use or exploit. In the legal context, destruction means the destruction of confiscated evidence by law enforcement officers / officials to prevent the use of evidence for other uses that are contrary to the prevailing laws and regulations. The extermination process is a series of activity stages carried out by the investigator to destroy the evidence of confiscation in a location, at a certain time, using equipment, manpower and infrastructure and involving competent parties (stakeholders) and the community. The process of destroying evidence is carried out after the investigator has prepared an official report. This is reflected in Article 91 paragraph (2) of Law Number 35 Year 2009 which regulates that: Confiscated narcotics and narcotic precursors that are in the storage

¹ Yosia Herman, “Tinjauan Yuridis Terhadap Pemusnahan Barang Bukti Narkotika Ditinjau Dari UU No, 35 Tahun 2009 Tentang Narkotika” Jurnal Lex Privatum V, No. 2 (2017): p. 132.
and security of investigators who have been determined to be destroyed must be destroyed within a maximum period of 7 (seven) days, as of receiving the decree of destruction from the Head of the local District Attorney.  

The police in the judiciary work as investigators. Based on Article 1 paragraph (10) of Law Number 2 of 2002 concerning the State Police of the Republic of Indonesia, investigators are officers of the State Police of the Republic of Indonesia who are authorized by law to carry out investigations. In his duties he seeks information from various sources, instructions, and existing evidence to be used as valid evidence and subsequently secured by the investigator himself as explained in the general provisions of Article 1 of Law Number 8 of 1981 Book of Law. Criminal Procedure Law.

Based on Article 1 number (5) of the Regulation of the Chief of Police of the Republic of Indonesia Number 10 of 2010 concerning Management of Evidence within the Indonesian Police, evidence is movable or immovable, tangible or intangible objects that have been confiscated for purposes of examination at the level of investigation, prosecution and examination in court. Evidence that has been obtained by the investigator will be given and stored to the Evidence Management Officer in the evidence storage in accordance with existing provisions. The term 'investigation' or in Dutch is called opsporing and in English it is called investigation has a meaning, namely a series of investigative actions in terms and according to the manner stipulated in law to seek and collect evidence which with this evidence makes clear about the crime that occurred and its use find the suspect.

Security of evidence carried out by investigators of course has a method or procedure that is regulated in writing. The Criminal Procedure Code as a formal guideline in the implementation of the criminal case process does not regulate the procedures or procedures for managing evidence, however, the Regulation of the Chief of Police of the Republic of Indonesia Number 10 of 2010 concerning Procedures for Managing Butki Goods within the State Police of the Republic of Indonesia regulates it clear. Based on Article 1 number (7) of the Indonesian National Police Chief Regulation No. 10 of 2010 securing butki goods is part of the management of evidence. Management of this evidence consists of: Receiving, storing, securing, releasing and destroying confiscated objects from a special room or place where evidence is stored.

Investigation is a series of investigative actions in matters and according to the manner regulated in this law to seek and collect evidence which with this evidence sheds light on the criminal act that has occurred in order to find the suspect. So that the procedure for managing evidence in the form of narcotics is specifically regulated according to Law Number 35 of 2009 as well as other regulations concerning the use of narcotics themselves. The management of narcotics evidence is specifically regulated in Government Regulation Number 40 of 2013 concerning the Implementation of Law Number 35 of 2009 concerning Narcotics and Regulation of the Head of the National Narcotics Agency Number 8 of 2013 concerning Management of Evidence in the Narcotics Agency Environment. Conducted by authorized officials within the scope of the National Narcotics Agency. Management of evidence in the form of narcotics in the Republic of Indonesia Government Regulation No. 40 of 2013 is referred to as confiscated goods which are fully controlled by the state.

If we further examine the provisions of Article 38 of the Criminal Procedure Code, it is impossible to confiscate without the knowledge of the head of the court. However, after the confiscation action is carried out, the space available for other parties (outside the investigator) to find out everything related to the confiscated goods is very limited. Due to limited space, the results of the confiscation of evidence are very open to misuse. The possibility of misuse is becoming more open because in the interest of examination, investigators have the authority to order people in control of objects to hand over the objects to the investigators. One possible form of abuse is not recording the full amount of evidence confiscated. For example, investigators often announce that they have succeeded in arresting big drug dealers with evidence of several kilograms of methamphetamine and several thousand ecstasy pills, or announcements of the success of investigators confiscating several thousand bottles of liquor and several million pieces of pornographic vcd. Because it is not easy and almost impossible to check the accuracy of the data announced by investigators, it is easy to misuse evidence. With the difficulty of checking the

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2 Arummi Dede Athia, “Pengaruh Pemusnahan Barang Sitaan Narkotika Terhadap Kekuatan Barang Bukti Di Persidangan” Jurnal Serambi Hukum 8, No. 2, (2015): p. 255.
3 Rachma Dewi Hariantika, “Proses Pemusnahan Barang Bukti Narkoba Sebelum Putusan Hakim Di Wilayah Hukum Polrestabes Semarang” Diponegoro Law Journal 5, No. 4, (2016): p. 6.
4 Andi Hamzah, Hukum Acara Pidana Indonesia, Jakarta: Sinar Grafika, (2012), p.120.
accuracy of the amount of data presented by investigators, misuse of evidence can occur within a period of time after confiscation. This means that all evidence which is not recorded in the report of confiscation can be used immediately after the confiscation.\(^5\)

Confiscated goods are narcotics and narcotics precursors or those suspected of being narcotics and narcotics precursors or containing narcotics as precursors of narcotics and other chemicals from the criminal offense of narcotics and narcotics precursors which are confiscated by the investigator. Based on Article 13, confiscated goods are subject to management which includes: Confiscation and sealing; Allowance and testing; Storage, security and supervision; Surrender and extermination. As a procedure, the evidence or confiscated goods obtained by the investigating party conducting the confiscation shall make allowance, wrap, seal and make a report of confiscation and sealing on the day of the confiscation and sealing is carried out.\(^6\)

After provision is made and samples are given for testing, the evidence or confiscated items will be stored in a special place so that they remain intact when they are submitted or transferred to the public prosecutor at the local district attorney’s office. Government of the Republic of Indonesia No. 40 of 2013 must at least meet the following requirements: First, a safe or safe for storing that has an electronic lock and a safe code that is placed in a room with strong walls, ceiling and windows equipped with steel bars and has one door with a double locking system or its equivalent; Second, separate from other confiscated items.

The destruction mechanism for narcotics evidence is regulated in Law Number 35 of 2009 concerning Narcotics and Regulation of the Head of the National Narcotics Agency of the Republic of Indonesia Number 7 of 2010 concerning Technical Guidelines for Handling Confiscated Narcotics, Narcotics Precursors and other chemicals safely. Article 45 paragraph (4) of Law Number 8 of 1981 concerning Criminal Procedure Law stipulates that confiscated objects which are prohibited or prohibited from circulation are confiscated for use in the interests of the state or for destruction. Included in the category of confiscated goods that are prohibited from circulating include, among others, liquor, narcotics, psychotropic substances, weapons and explosives as well as books or pictures and other forms of goods that are categorized as pornography.

Article 60 of Law Number 22 Year 1997 concerning Narcotics which was renewed by Law Number 35 Year 2009 concerning Narcotics in Articles 91 and 92 regulates the destruction of narcotics, one of which is a criminal act. According to these provisions, the destruction of confiscated goods in the form of narcotics and psychotropic substances carried out after the court decision is legally enforceable is still carried out by officials of the Attorney General’s Office and witnessed by officials of the Police and the Ministry of Health by making an Official Report of the Destruction. Extermination of narcotics evidence is further regulated in Government Regulation Number 40 of 2013 concerning Implementation of Law Number 35 of 2009 concerning Narcotics, namely as a form of procedure for destroying narcotic evidence which is destroyed according to its type. Regulation of the Head of the National Narcotics Agency of the Republic of Indonesia Number 7 of 2010 concerning Technical Guidelines for Handling Confiscated Narcotics, Narcotics and Other Chemical Substances Safely, explains that the destruction of narcotics evidence, including marijuana is destroyed through the steps that have been set out therein. This regulation becomes a standard rule that must be implemented by the parties carrying out the destruction of confiscated evidence.

Based on the description above, the focus of the problem to be discussed in this study can be drawn, namely how is the legal arrangement for destroying evidence of drug abuse based on formal law in Indonesia? And what is the procedure for destroying evidence of criminal acts of narcotics abuse according to formal law in Indonesia? This research is a type of normative legal research. Normative legal research is research whose data comes from secondary data.\(^7\) The type of research used in this writing is library research, which means that research is carried out using written documents as data, and the data sources used in this study include primary legal materials and secondary legal materials. Primary legal materials are legal materials that are binding or that make people law-abiding, including legal products that are subject to study and legal products as tools of criticism. Secondary legal materials

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\(^5\) Arummi Dede Athia, *Ibid.*, p. 256.

\(^6\) Siswanto S., *Politis Hukum Dalam Undang-Undang Narkotika (UU Nomor 35 Tahun 2009)*, Jakarta: PT. Rineka Citra, (2012), p. 303.

\(^7\) Erwin Asmadi, “Regulasi Mandiri Transportasi Online dalam Pembayaran Pesanan Makanan Atas Konsumen yang Ingkar Janji” *De Lega Lata: Jurnal Ilmu Hukum* 4, No. 1 (2019); p. 104.
include explanations of primary legal materials in the form of expert doctrines found in books, journals and websites.\(^8\)

B. Discussion

1. Legal Arrangements for Destruction of Evidence of Narcotics Abuse Based on Formal Law in Indonesia

In the Big Indonesian Dictionary, it is written that evidence is an object used to convince a judge of the defendant's guilt in a criminal case that someone is accused of. The types of evidence related to a criminal case have been regulated in the Criminal Code, and methods for obtaining evidence are determined, namely through searches, confiscation and examination of letters. If during a search or examination of letters, there are items needed to prove a criminal act, then the items found shall be confiscated. The types of evidence are regulated in Article 39 paragraph (1) of the Criminal Procedure Code includes:\(^9\)

1. Objects or claims of a suspect or defendant which are wholly or partly alleged to have been obtained from a criminal act or as the result of a criminal act;
2. Objects that have been used directly to commit a criminal act or to prepare it;
3. Objects that are used to obstruct a criminal investigation;
4. Objects specially made or intended to commit a criminal act;
5. Other objects that have a direct relationship with the criminal act committed.

The definition of the destruction of narcotics evidence is mostly regulated in legal regulations in Indonesia, although it is not directly regulated by the meaning of Law Number 35 of 2009 concerning Narcotics but Article 91 and Article 92 regulates the destruction of narcotics evidence and narcotic precursors. The definition of the destruction of narcotics evidence is contained in the Government Regulation of the Republic of Indonesia Number 40 of 2013 concerning Implementation of Law Number 35 of 2009, as well as in Article 1 number 5 of the Regulation of the Head of the National Narcotics Agency of the Republic of Indonesia Number 7 of 2010 concerning Technical Guidelines for Handling Narcotics Confiscated Goods, Narcotics Precursor and other chemicals safely and Regulation of the Head of the National Narcotics Agency of the Republic of Indonesia Number 13 of 2010 concerning Procedures for Managing Evidence within the National Narcotics Agency.

It should be noted that any narcotics evidence and narcotic precursors obtained by the National Narcotics Agency Investigators and Indonesian National Police Investigators will have their status determined as confiscated property of the state. This has been explained in Article 101 paragraph (1) of Law Number 35 of 2009 concerning Narcotics which states: narcotics, narcotic precursors, and tools or goods used in narcotics crime and narcotics precursors or those related to narcotics and narcotics precursors, and the results are declared confiscated for the state.

This rule is in line with the provisions contained in Article 45 paragraph (4) of the Criminal Procedure Code and its explanation, it is stipulated that confiscated objects which are prohibited or prohibited from circulating, excluding the provisions referred to in paragraph (1), are confiscated for use. for the benefit of the state or destroyed. These items are in line with the provisions of Article 194 paragraph (1) of the Criminal Procedure Code, which can be stipulated in a court decision to be damaged or destroyed. So this is the basis for stating that narcotics evidence is evidence of confiscated narcotics for the next.

Evidence of confiscated narcotics that has been determined to be destroyed by the Head of the local District Attorney will immediately be executed by the authorized National Narcotics Agency Investigators and Indonesian National Police Investigators. In its implementation, the Standard Operating Procedure refers to the hierarchically regulated rules in Law Number 35 of 2009 concerning Narcotics. Extermination is a series of actions by an investigator to destroy confiscated goods, which is carried out after an appointment by the Head of the local District Prosecutor's Office to be destroyed, not witnessed by an official representing the Attorney General's Office, the Ministry of Health and the Food and Drug Administration. In the event that the official element is unable to attend, the destruction is witnessed by another party, namely: officials or members of the local community, depending on the

\(^8\) Rahmat Ramadhani, "Jaminan Kepastian Hukum yang Terkandung dalam Sertipikat Hak Atas Tanah" De Lega Lata: Jurnal Ilmu Hukum 2, No. 1 (2017): p. 142.

\(^9\) Arummi Dede Athia, Op.Cit., p. 259-260.
policy of the exterminator. From these provisions, we can know that supervision in the destruction of confiscated narcotics by officials representing the elements: The local District Attorney; Ministry of Health; Food and Drug Administration.

If investigated in health science, the existence of narcotics culling also exists. This is stated in Article 37 of the Regulation of the Ministry of Health of the Republic of Indonesia Number 3 of 2015 concerning Circulation, Deviation, Destruction and Reporting of Narcotics, Psychotropics and Pharmacy Precursors which states: the destruction of Narcotics, Psychotropics and Pharmacy Precursors is only carried out in the event of: a). Produced without meeting the standards of the applicable requirements and / or cannot be reprocessed; b). Has expired; c). Does not meet the requirements for use in health services and / or for scientific development, including residual use; d). Canceled distribution permit, or; e). Related to a criminal act.

Based on the provisions of this article, the health sector also plays a role and supports the existence of Law Number 35 of 2009 concerning Narcotics. reinforced by the last point of the article above that the Indonesian government works hand in hand in eradicating the crime of narcotics abuse, so that every state agency related to the existence of narcotics implies permanent law regarding the destruction of narcotics if their circulation is illegal and beyond standardization.

Narcotics culling is carried out by a person or body responsible for the production and distribution of narcotics, witnessed by the competent official and producing a report on annihilation which contains, among others: a). Day, date, month and year; b). Name of special permit holder (Pharmacist who manages Pharmacy / Doctor); c). Name of the witness (1 (one) person from the government 1 (one) person from the agency / agency concerned); d). Name and number of narcotics destroyed; e). Method of destruction; f). Signature of person in charge of pharmacy / special license holder / doctor who owns narcotics and witnesses. Then the minutes are sent to the local District / City Health Office with a copy of: Local POM Office, the person in charge of narcotics, PT. Kimia Farma (Persero) Tbk., And Archives.

Long before the existence of the latest regulations concerning the destruction of narcotics evidence in Law Number 35 of 2009 concerning Narcotics, the implementation of the destruction of evidence, Gatot Supramono explains in his book, explains that the method of destroying narcotics as evidence in criminal cases can be divided into two, namely before the verdict and after the court decision is explained in Article 62 of the Law on Narcotics Number 22 of 1997.

Related to the destruction of evidence that is carried out after a decision is made. Evidence which in the verdict states that the goods are returned to a certain person, is returned at the first opportunity by making an official report on the return of the confiscated goods Likewise, for confiscated goods which are based on the ammar of the verdict, are destroyed, then the Letter of Order is issued making an Official Report of the Destruction of Seized Goods.10

When compared with the latest regulations, the regulation regarding the destruction of narcotics evidence written in Article 62 of Law Number 22 Year 1997 concerning Narcotics, gets a few additional new things that are regulated in the latest regulation in Law Number 35 Year 2009 concerning Narcotics. This change is found in the destruction of narcotics evidence before the Court's decision, namely in Article 91 paragraph (1) of the Narcotics Law states that the head of the Public Prosecutor's Office within 7 (seven) days of receiving notification of confiscation of narcotic goods / narcotic precursors, must determine the status evidence as contained in the article. Even the head of the State Prosecutor's Office can determine the status of narcotics evidence / narcotics precursors to be destroyed.11

Undang-Undang Narkotika ini sendiri tidak mengatur secara langsung tentang tata cara pemasaran barang evidence of confiscation in the form of narcotics. The procedure for destroying evidence of narcotics / narcotic precursors is further regulated in Government Regulation Number 40 of 2013 concerning Implementation of Law Number 35 of 2009, as described in Article 94 of Law Number 35 of 2009. Based on Article 26 paragraph (1) of the Regulation Government Regulation Number 40 Year 2013 will destroy confiscated evidence in the form of narcotics and narcotic precursors by: a). BNN investigators and Indonesian National Police investigators based on the appointment of the Head of the local District Attorney; b). The prosecutor is based on a court decision that has permanent legal force.

10 Leden Marpaung, Proses Penanganan Perkara Pidana, Jakarta: Sinar Grafika (2010), p. 220.
11 Sujono, Komentar & Pembahasan Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika, Jakarta: Sinar Grafika, (2011), p. 193.
The destruction of confiscated narcotic goods according to Article 26 paragraph (2) of Government Regulation Number 40 of 2013 must also be made by the investigators of the National Narcotics Agency and investigators of the Indonesian National Police who are tasked with carrying out the destruction. Minutes of this destruction will be submitted to the Head of the local District Attorney with copies to the Head of the local Court, the Head of the local Regional National Narcotics Agency and the Head of the local Regional Police. This is evidence that the destruction of narcotics confiscated goods has been carried out.

Based on Article 27 of Government Regulation of the Republic of Indonesia Number 40 of 2013 In carrying out extermination, investigators of the National Narcotics Agency or investigators of the National Police of the Republic of Indonesia are required to invite officials from the prosecutor's office, the Ministry of Health, the Food and Drug Supervisory Agency, and / or other relevant officials as well as members of the local community as witnesses. As well as the destruction of confiscated goods by investigators of the National Narcotics Agency or investigators of the State Police of the Republic of Indonesia based on the determination of the head of the local district attorney, is carried out within a maximum period of 7 (seven) days after the determination of the Head of the State Prosecutor is received by investigators of the National Narcotics Agency or investigators of the Indonesian National Police in certain cases it can be extended 1 (one) time at the same time.

The destruction of Confiscated Goods without going through the determination of the state prosecutor as referred to in Article 26 paragraph (2) shall be carried out within a maximum period of 2 x 24 (two times twenty four) hours after:

1) Narcotics plants are found, except due to geographical factors or transportation that are difficult to reach, destroyed within 14 (fourteen) days after the Narcotics plants are found and within 3 x 24 (three times twenty four) hours are obliged to notify the evidence destroyed it to the local district attorney;

2) the remainder of the Sample Test results is submitted by the laboratory officer, unless used as evidence in court;

3) Confiscated Items are returned to BNN investigators or investigators of the Republic of Indonesia National Police who cannot be used because they are damaged or their use does not meet the requirements for the interests of science and technology development and for the benefit of education and training.

Extermination by the prosecutor as referred to in Article 26 paragraph (1) letter b, shall be carried out within a maximum period of 7 (seven) days from the court decision which has obtained permanent legal force by inviting National Narcotics Agency investigators or investigators of the Indonesian National Police and Ministry officials. Health, the Food and Drug Administration, other relevant officials and members of the local community as witnesses. Article 28 of Government Regulation Number 2013 states that: Implementation of Destruction of Confiscated Property by BNN investigators or investigators of the Indonesian National Police based on the determination of the head of the local district attorney as referred to in Article 26 paragraph (1) letter a, an official report must be made within the maximum period of time. 1 x 24 (one time twenty four) hours after Destruction is carried out. This is in line with Article 92 of Law Number 35 of 2009 which discusses the destruction of narcotic evidence in the form of narcotic plants. Likewise, paragraphs (2) and (3) of Article 28 of Government Regulation Number 2013 contain procedures for destroying evidence of narcotic plants.

After carrying out the destruction of confiscated narcotics evidence by National Narcotics Agency investigators or Indonesian Police investigators without going through the determination of the local District Attorney, it must be submitted to the Head of the local District Attorney with a copy to the head of the local district court, the head of the local provincial BNN, the Head of the Local Regional Police and the local drug and food control center, as described in Article 29 PP Number 40 of 2013. Evidence of confiscated narcotics, narcotic precursors and other chemicals as a result obtained by investigators and has been handled according to the handling procedures listed in Attachment I to the Regulation of the Head of BNN Number 7 of 2010, when the head of the local district attorney's office has obtained an annihilation order, it will be destroyed immediately. At the latest, it is destroyed 7 (seven) days after the stipulation and will receive an additional time of 1 time with the same period.

As with the handlers for confiscated narcotics confiscated items, narcotics precursors and other chemicals that have technical guidelines for safe handling, the destruction of confiscated narcotics
evidence, narcotics precursors and other chemicals also have standards in their implementation. This is also stated in the Regulation of the Head of the National Narcotics Agency Number 7 of 2010 in Attachment II of this regulation. The contents of this attachment also contains about safe steps that must be implemented by every National Narcotics Agency Investigator and Indonesian National Police Investigator who is tasked with carrying out the destruction. The following is a technical guideline for the safe destruction of confiscated narcotics, narcotic precursors and other chemicals:

1) Characterization of waste. Characterization is carried out by identifying chemicals through a test kit or reading the packaging / container / package labels and then grouping them.

2) Treatment of waste. Treatment of waste is an action to change or destroy waste (chemically) depending on the chemical-physical properties of the waste. Treatment of waste can be carried out by incinerator, chemical neutralization or burning in open air far from residential areas. For the record, open-air burning, if possible, the simplest way of handling waste is by burning in open air in a location far from residential areas.

3) The results of waste treatment either with an incinerator or chemical neutralization will produce residual treatment which can be in the form of liquid, solid, and / or both.

4) Solid material or ash from combustion can be sent to hazardous waste disposal facilities. Whereas the liquid resulting from neutralization, if possible and is not dangerous, can be disposed of in dirty waterways, determining that the waste has been neutralized needs to be determined chemically.

2. Procedure for Destruction of Evidence of the Crime of Narcotics Abuse According to Formal Law in Indonesia

The procedure for destroying narcotic evidence and narcotic precursors is of course carried out based on established regulations. In this case, as explained in the previous discussion, Law Number 35 of 2009 concerning Narcotics in a hierarchical order promulgates the Regulation of the Head of the National Narcotics Agency of the Republic of Indonesia Number 7 of 2010 concerning Technical Guidelines for the Destruction of Confiscated Narcotics, Narcotics Precursors and Other Chemicals Safely as a procedure in terms of the technical implementation of the destruction of narcotic evidence and narcotic precursors, is quite clearly described in Attachment II to the regulation. From each procedure stated in these rules, it becomes a neat mechanism in its implementation.

The mechanism for destroying narcotics evidence is not only interpreted as a technical means of annihilating it. The mechanism for destroying narcotic evidence includes all processes that occur in the destruction of confiscated narcotics evidence and narcotic precursors. The appointment of an authorized official as the executor, the production of an official report on the destruction, the procedure for implementing the destruction, and the technical aspects of destruction are one unit that must be implemented based on existing provisions. In other words, the mechanism is the whole process which is carried out based on all the established rules to regulate it, and is executed properly and neatly.

The mechanism for destroying narcotics evidence is regulated hierarchically based on Articles 91 and 92 of Law Number 35 of 2009 concerning Narcotics with the implementation of the procedures contained in Government Regulation Number 40 of 2013 concerning Implementation of the Narcotics Law No 35 of 2009 up to technical implementation. Destruction of narcotics evidence and narcotic precursors regulated in the Regulation of the Head of the National Narcotics Agency of the Republic of Indonesia Number 7 of 2010 concerning Technical Guidelines for the Destruction of Confiscated Narcotics, Narcotics Precursors and Other Chemicals.

The mechanism for each of these rules contains rules which are the same and consistent, so that there is no overlap between the rules and the other. For example, Article 91 paragraph (3) of Law Number 35 of 2009 concerning Narcotics states: investigators are required to produce an official report of annihilation within 24 (one time twenty-four hours) of destruction and submit the report to the investigator. The National Narcotics Agency or the local Republic of Indonesia National Police Investigator and a copy of the minutes submitted to the Head of the local District Attorney, the Chairman of the local District Court, the Minister and the Head of the Food and Drug Administration. The contents of the Article in this article are also mentioned in Article 28 paragraph (1) Government Regulation Number 40 of 2013 concerning Implementation of Law Number 35 of 2009 concerning Narcotics and is also contained in Article 5 paragraph (1) of Regulation of the Head of BNN Number 7 of 2010 concerning Guidelines Technical Handling and Destruction of Confiscated Narcotics, Narcotics Precursors and Other Chemicals Safely.
Law Number 35 of 2009 concerning Narcotics only regulates that it is the basis for the process of destroying narcotics evidence and narcotics precursors. This is as explained in Article 91 of Law Number 35 of 2009, namely:

1) The head of the local District Attorney after receiving notification regarding the confiscation of narcotic goods and narcotics precursors from the Indonesian National Police Investigators or National Narcotics Agency investigators, within a maximum period of 7 (seven) days shall determine the status of the confiscated narcotics goods and narcotics precursors for development purposes, science and technology, education and training interests, and / or destroyed.

2) Confiscated narcotics and narcotic precursors that are in the storage and security of the investigator who have been determined to be destroyed, must be destroyed within a maximum period of 7 (seven) days after receiving the decree of annihilation from the head of the local district attorney.

3) Investigation is obliged to make an annihilation procedure within 1 time 24 (one time twenty four) hours after the destruction is carried out and submit the report to the investigator of the National Narcotics Agency or the investigator of the local State Police of the Republic of Indonesia, the chairman of the local district court, the Minister. and the Head of the Food and Drug Administration.

4) In certain circumstances, the time limit for destruction may be extended 1 (one) time for the same period.

5) Confiscated goods for the purpose of developing science and technology are handed over to the Minister and for education and training purposes are handed over to the Head of the National Narcotics Agency and the Head of the Indonesian Police within 5 (five) days from receiving the appointment from the head of the local district attorney.

6) The Head of the National Narcotics Agency and the Head of the State Police of the Republic of Indonesia submit a report to the Minister regarding the use of confiscated goods for educational and training purposes.12

Article 92 of Law Number 35 Year 2009 also adds regarding the destruction of narcotic butki goods in the form of narcotic plants, namely:

1) Investigators of the Indonesian National Police and investigators of the National Narcotics Agency are obliged to destroy any narcotics plants found within 2 times 24 (two times twenty four) hours from the time they are found, after having removed a small part for the purposes of investigation, prosecution and examination at court sessions, and can be set aside for the purposes of science and technology, as well as for the purposes of education and training.

2) For narcotic plants which are difficult to reach due to their number and areas due to geographic or transportation factors, the destruction is carried out within a maximum period of 14 (fourteen) days.

3) Destruction and set aside of part of the narcotic plants shall be carried out by making an official report which at least contains:
   a. Name, type, nature and number
   b. Information regarding the place, hour, day, date, month, and year of discovery and destruction
   c. Information regarding the owner or control of narcotic plants
   d. Signature and complete identity of the executor and officials or other related parties who witnessed the destruction.

4) A small part of the narcotic plants that were not destroyed was kept by the investigator for the sake of evidence

5) A small portion of narcotic plants which are not destroyed is kept by the Minister and the Food and Drug Administration for the purpose of developing science and technology.

6) A small portion of the narcotics plant that is not destroyed is kept by the National Narcotics Agency for education and training purposes.13

However, in practice, narcotics evidence will be destroyed after confiscation of evidence from several narcotics cases has been collected. It is the policy of the police that has not received adequate facilities and infrastructure to implement the provisions of the existing regulations. Technically the mechanism, Article 30 of Government Regulation Number 40 of 2013 states: the implementation of

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12 Siswanto S, Op.Cit., p. 306.
13 Ibid.
destroying confiscated goods in the form of narcotics must be carried out in a safe place through or other chemical means that do not cause bad consequences for health and damage to the local environment.

The technique for destroying confiscated evidence in the form of narcotics in a safe manner is further regulated by the Head of the National Narcotics Agency, the Regulation of the Head of the Indonesian National Police and the Regulation of the Attorney General of the Republic of Indonesia Essentially, from the exposure to Article 30 paragraph (2) of Government Regulation Number 40 of 2013, the latest regulation is a reference procedure that will be used in the technique of destroying narcotic evidence. Regulation of the Head of the National Narcotics Agency of the Republic of Indonesia Number 7 of Year concerning Technical Guidelines for the Handling and Safe Destruction of Confiscated Narcotics, Narcotics Precursors and Other Chemicals is the latest procedure in implementing the destruction of confiscated narcotics evidence, when compared with the technical guidelines issued by the Indonesian National Police. and the Attorney General's Office of the Republic of Indonesia which is still based on the contents of Law Number 22 Year 1997.

Article 4 The Regulation of the Head of the National Narcotics Agency of the Republic of Indonesia Number 7 Year states: Handling, destroying and disposing of the rest of the annihilation safely can be carried out by investigators in a number of ways as listed in Appendix I and Appendix II, which are an integral part of the Regulation of the Head of the National Narcotics Agency. this. Attachments I and II of this regulation explain the steps for handling and the steps for destroying evidence of confiscated narcotics, narcotic precursors and other chemicals safely.

C. Conclusion

Based on the hierarchy of arrangements, the procedures for the destruction of narcotics evidence are based on Article 91 and Article 92 of Law Number 35 of 2009 concerning Narcotics. Destruction of narcotic evidence is carried out before a court decision is made based on the determination of the local District Attorney's office and destruction after a court decision is based on an order of a judge's decision. Regarding the technical guidelines for destruction, the hierarchical stages of the procedure for destruction are regulated in the Regulation of the Head of the National Narcotics Agency of the Republic of Indonesia Number 7 of 2010 concerning Technical Guidelines for Handling and Destruction of Confiscated Narcotics, Narcotics Precursors and Other Chemicals in Safe.

Extermination of narcotics evidence is a form of good legal development and a means of implementing good governance in its concern for the safety of the nation and state by creating complex regulations and indirectly creating a law enforcement apparatus (criminal justice system) that is mandatory in run the wheel of law in the Unitary State of the Republic of Indonesia in accordance with the appropriate rules and regulations. It is better to reduce the occurrence of errors in the mechanism of destroying narcotic evidence so that it is still in accordance with the procedure. Implementing the destruction of evidence should reduce policy-making at risk of violating procedures determined by existing regulations and improve the performance of each law enforcement apparatus itself.

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