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VERBALISAN WITNESSES: EFFECTIVENESS AND JUSTICE OF PROVING NARCOTICS CASES IN BOYOLALI

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Abstract

Verbalisan witness, frequently associated with investigating witnesses, testifies as the defendant entirely or partially disputes the Police Investigation Report (BAP). The presence of verbalisan witnesses in the evidence of narcotics cases in Boyolali enhanced the conviction of judges in deciding narcotics crimes. However, it is vague whether providing verbalisan witnesses as evidence will still adhere to the principle of justice and be effective in proving narcotics cases. The purpose of this study aimed to discover and understand how effective and fair to present verbalisan witnesses in proving narcotics cases in Boyolali. This research employed an empirical juridical approach. This research was a descriptive study. This study administered primary data from interviews with judges, prosecutors, police, and advocates who had handled narcotics cases that presented verbalisan witnesses, and secondary data from literature. The results of researchers' observations on the effectiveness of verbalisan witnesses and fairness of proving narcotics cases in Boyolali indicate that the presence of verbalisan witnesses has fulfilled the values of justice and provided the effectiveness of proving narcotics cases in Boyolali.

Keywords: *Verbalisan Witness, Effectiveness, Justice*

1. INTRODUCTION

Crime is a multifaceted phenomenon that can be examined from several perspectives. Thus, there are various statements regarding evil in our daily lives,[1] especially crimes related to drug addiction.

In Indonesia, drug abuse cases have decreased in the last three years. The number of drug abuse cases in Indonesia has decreased from 2019 to 2021. According to the National Narcotics Board (BNN), there were 766 cases and 1,184 suspected drug offences and drug abuse cases in Indonesia in 2021. Compared to 2020, this number decreased by 8.04 %, and drug crime cases were reported in 833 cases and 1,307 suspect cases.[2]

[1] "Marisa Kurnianingsih, M. Zaki Attirmidzi, 2021, The Effectiveness of Imposing the Death Penalty for Corruption Perpetrators as a Solution for Handling Corruption during the Covid-19 Pandemic, Law and Justice, Vol. 6 No.1, Mei

[2] DataIndonesia.id, Drug Cases in Indonesia Have Dropped in the Last 3 Years, https://dataindonesia.id/ragam/detail/kasus-narkoba-di-indonesia-turun-dalam-3-tahun-terakhir , retrieved October 23, 2022

The Boyolali District Public Prosecutor's Offices reported 38 narcotics cases in 2019, 54 narcotics cases in 2020, 45 narcotics cases in 2021, and 37 narcotics cases as of October 2022 in the Boyolali district,[3] Central Java Province. Central Java Province had the fourth-highest drug abuse cases in all of Indonesia in 2020.[4]

The rapid development of technology and information in society since the 20th century is challenging to comprehend because the legal sector has caused a reevaluation of legal treatment. It focuses on how the legal profession and those who apply the law interact. However, one of the most important is legal awareness, as it relates to the effectiveness of implementing the current legal regulations of the country. In determining the degree to which the effectiveness of legislation can be assessed, the scope of its application must also be comprehended. The rule is effective if most legal subjects (persons and entities) comply with the law. However, whether law enforcement is accurate depends on each specific interest, each of which is different.

The supremacy of law is viewed as social justice. In achieving the intended justice, the law limits human behavior. Fair contracts and fair exchange lead to the principle of justice. It illustrates whether or not the expression "justice as justice" is appropriate. It expresses the idea that the principles of justice are precisely agreed upon in the ideal situation. The expression does not imply that the concepts of justice and justice are the same, nor is it the expression "Poetry is the same as a metaphor". One type of just justice is comprehending the various parties as rational and equally neutral in the initial situation.[5]

Evidence, Subekt said, is an attempt to convince the judge of the veracity of the claims submitted at trial.[6] Evidence is the primary event in Indonesian criminal law because means of evidence reveals the defendant standing at trial, whether or not the case corresponds to the elements of criminal law regulated in both the Indonesian criminal code (KUHP) and the Indonesian Criminal Procedure Code (KUHAP) which is the central issue of the trial. Evidence in criminal procedure is the discovery of facts and current evidence. Therefore, means of evidence represents a crucial position in examining a crime or discovering a person's guilt. The Indonesian Criminal Procedure Code (KUHAP) does not define means of evidence; the Indonesian Criminal Procedure Code (KUHAP) primarily asserts that means of evidence is reliable, according to Article 184 of KUHAP.

As a form of the legal profession, judges are often called a parliament. Consequently, judging is considered a noble call (offcium nobile).[7] It means the profession is essentially an obligation for people and humanity. The judge, as a crucial figure in the legal procedure, is constantly challenged to hone his conscience, maintain moral intelligence and strengthen his professional ability to maintain law and social justice. Judicature is administered by the Supreme Court, the bodies below it, and the

[3] Data Kejaksaan Negeri Boyolali, *Kasus tindak pidana perkara narkotika tahun 2019-2022*, Boyolali 27 Oktober 2022, pukul 13:00 WIB

[4] AntaraJateng, Jateng rangking 4 penyalahgunaan narkoba se-Indonesia, https://jateng.antaranews.com/berita/318855/jateng-rangking-4-penyalahgunaan-narkoba-se-indonesia , diakses pada tanggal 29 Oktober 2022

[5] John Rawls, 2019, *A Theory of Justice*, Yogyakarta: Pustaka Pelajar, hlm 12-15

[6] Erdianto Effendi, 2021, Hukum Acara Pidana Prespektif KUHAP dan peraturan lainnya, Bandung: PT
Refika Aditama, hlm. 160"

[7] "Sidharta, 2006, *Moralitas Profesi Hukum: Suatu Tawaran Kerangka Berfikir*, Bandung: PT. Refika Aditama, Dalam: Ahmad Kodir Jailani Tanjung, 2019, *Paradigma Hakim Dalam Memutuskan Perkara Pidana di Indonesia*, Jurnal Hukum dan Pembangunan Ekonomi, Vol. 7 No.1, Juni.

Constitution Court is synchronized using the laws and regulations regarding Judicature.[8]

Implementing criminal law to resist drug addiction ultimately raises the problem of how the judge adjudicates drug abuse cases. Judicial discretion in imposing a sentence is essential in determining the possibility of judicial discretion following the principle of fairness or accountability.

The application of penal provisions to perpetrators of narcotics abuse, including drug addicts, indeed cannot be separated from the ethics of laws and regulations:

1. The moral authority to penalize someone is only for committing a crime or misdemeanor.
2. Moral punishment is based only on the same principle
3. For revenge justice, punishment must be balanced against the consequence of committing errors.
4. The moral basis of punishment is to commit "alleviation" against injustice, and "reformation", against punishment, representing the model of the "rights" of the offender.
5. Punishment as a deterrent to the future of the convicted crime is not recurrent.
6. Punishment provides satisfaction for victims and other victims[9]

Two interesting problems can be formulated from the above descriptions:

1. How effective are verbalisan witnesses (investigators) roles in proving drug abuse cases in Boyolali the Boyolali district public prosecutor’s offices?
2. How fair is the role of verbalisan witnesses in proving drug abuse cases in the Boyolali district public prosecutor’s offices?

2. RESEARCH METHOD

This research employed an empirical juridical approach.[10] This research was a descriptive study.[11] The primary data of this study originate from direct interviews with judges, prosecutors, police, and advocates who handled the case, in addition to secondary data from literature studies in the form of primary and secondary legal sources. Legal studies books, magazines, internet articles, criminal procedure literature, and more advanced legal materials are accessible.

3. ANALYSIS AND DISCUSSION

3.1. Effectiveness of Verbalisan Witnesses in proving narcotics cases in Boyolali Court

Law as a social subsystem must certainly function and perform in society according to the purpose of the legislation itself.[12] The law procedure in a community is as essential as establishing, finding, and enforcing laws.[13]

Soerjono Soekannto's theory of the effectiveness of the law as a guideline represents the proper attitude, action, or behavior. The deductive-rational method was applied as a method for thinking that fosters dogmatism. On the other hand, some view the law as an organized frame of mind, action, or behavior. The mindset is inductive-empirical. Thus, the law is equal to repeated action with a specific purpose.[14]

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[8] Nuria Siswi Enggarani, 2018, *INDEPENDENSI PERADILAN DAN NEGARA HUKUM*, Jurnal Law and Justice, Vol. 3 No. 2, Oktober.

[9] Young Ohotimur, 1997, *Teori Etika Tentang hukuman Ilegal*, Jakarta: PT Raja Grafindo Persada, hlm. 125, Dalam: Sri Dewi Rahayu, Yulia Monita, 2020, *Pertimbangan Hakim dalam Putusan Perkara Tindak Pidana Narkotika*, Jurnal Of Criminal Law, Vol. 1 No. 1, Februari.”

[10] "Soedjono Soekanto & Sri Mamudji, 1986, Normative Legal Research, A Brief Review, Jakarta: CV. Eagle, P. 15. In: Angga Rizky Bagaskoro, 2017, *Empirical Juridical Review of the Handling of Correctional Protégés who escaped from the Special Child Development Institute (Case Study in the Special Child Development Institute Grade 1 Kutoarjo)*, Thesis, Surakarta: eprint.ums.ac.id, p. 8.

[11] *Ibid*

[12] Arif Hidayat dan Zaenal Arifin, 2019, “*Politik Hukum Legislasi Sebagai Socio-Equilibrium Di Indonesia*,” Jurnal Ius Constituendum 4, no. 2 147–59, https://doi.org/10.26623/jic.v4i2.1654.

[13] Rohmatul, 2020, *Construction Of Islamic Law And Customary Law In Javanese Tondano Society*, UNTAG Law Review 5, no. 1: 38–47

[14] Sabian Usman, 2009, *Dasar-Dasar Sosiologi,* Yogyakarta: Pustaka Belajar. Dalam: Nur Fitryani Siregar, 2018, *Efektivitas Hukum*, Jurnal Ilmu

According to Lawrence M. Friedman, a legal system must encounter three elements for the law based on the book to be applicable. From Lawrence M. Friedman's perspective, the three elements of the legal system are as follows: The content of the law, the legal structure and the culture of the law.[15] In ensuring that the law is followed in society, the most crucial thing is understanding and appreciating the effectiveness of the laws that govern society.

The effectiveness of the law underlines that every rule of law contains religious ideas, goals, and frameworks intended to regulate and maintain society and guide society toward a better life. There are two aspects in terms of the social effectiveness of the law: the effectiveness of restrictive legislation and the effectiveness of legislation broadly. The effectiveness of restrictive laws is based on the effectiveness of the laws and regulations of society. It corresponds to what CG conducted. Howard and R.S. Mumners stated that People's legal ability is only observed and examined in positive legal products, specifically in the form of laws and regulations.[16] The effectiveness of the law, in general, simply aims to show that the study of legality is not only the effectiveness of laws and regulations but also includes a study of the legality of law-abiding communities.[17]

Achmad Ali asserted that individual and organizational perspectives determine the rules' effectiveness.[18] The individual perspective who observed how the law works is related to personal compliance with the law. Regarding organization, legal effectiveness is based on institutions that have the power to create and enforce laws.

Is it ideal for learning more about the legal effectiveness of verbalisan witnesses presence in drug abuse cases in the Boyolali district public prosecutor’s offices, is the status of verbalisan witnesses valid as legal evidence, and do verbalisan witnesses presented in drug abuse cases have optimism on the effectiveness of the law itself?

In Article 184 (1) of KUHP, a witness’s testimony is a priority because if a person commits a crime, they inevitably attempt to extend the available evidence. Thus, presenting evidence in a criminal trial emphasizes a witness’s testimony. The importance of witnessing begins after a preliminary examination and subsequent procedures in the prosecutor's office and court. Evidence of witness becomes a reference for the judge in considering whether the defendant is criminally responsible.[19]

Four definitions elaborate on the definition of a witness: "A witness is a person who can present evidence of what he heard, saw, and experienced about a criminal act for investigation, prosecution, and punishment; 2) a witness is a person who saw, understood, heard, experienced an event or incidences; 3) a witness is a person who presents evidence at a trial on behalf of the prosecutor or defendant; A witness is someone who can provide evidence about what he hears, sees or experiences for investigation, prosecution and trial. " In court, a witness must take an oath based on

Pengetahuan dan Kemasyarakatan, Vol. 18 No.2, Desember.

[15] Dicky Eko Prasetio, 2021, *Inventarisasi Putusan Peradilan Adat Sendi Sebagai Upaya Memperkuat Constitutional Culture Dalam Negara Hukum Pancasila*, Jurnal Hukum Lex Generalis 2, no. 3: 249–73.

[16] Fauziah Lubis, 2018, *Profesi Sebagai Pihak Pelapor Atas Transaksi Keuangan Yang Mencurigakan Dalam Tindak Pidana Pencucian Uang*, Jupiis: Jurnal Pendidikan Ilmu-Ilmu Sosial 10, no. 2: 210, https://doi.org/10.24114/jupiis.v10i2.11438.”

[17] “Alwin Ahadi, 2022, *Efektivitas Hukum dalam Perspektif Filsafat Hukum: Relasi Urgensi Sosialisasi terhadap Eksistensi Produk Hukum*, Jurnal USM LAW REVIEW, Vol. 5 No.1, Mei

[18] Achmad Ali, 2017, "*Uncovering Legal Theory & Justice Theory Including Law Interpretation (Legisprudence) Volume 1 Preliminary Understanding*", 7th ed. (Jakarta: Kencana)

[19] Migel Kamu, 2019,*Kekuatan Alat Bukti Keterangan Saksi Yang Memiliki Hubungan Darah Dengan Terdakwa Dalam Tindak Pidana Pencurian (Penerapan Pasal 367 Ayat 2 jo. Pasal 362 KUHP*, Lex Et Societatis Vol.7 No.1, Januari.

his religious beliefs that his presented evidence can be a means of evidence.[20]

Article 1 number 26 of KUHAP defines a witness as someone who can provide information for an investigation, law enforcement, and criminal justice. As a witness to a criminal event, his testimony is means of evidence based on what he heard, saw and experienced to prove the event. Article 1 paragraph 27 of KUHAP regulates this characterization.

Means of valid evidence in the laws and regulations is regulated in Article 184 paragraph (1) of KUHAP as follows:

1. "Witness testimony;
2. Expert testimony;
3. Letters;
4. Instructions;
5. Defendant testimony"

According to Article 184(1) letter (a), testimony is crucial in law enforcement and evidence that can incriminate or acquit the defendants. Testimony is a pledge accomplished to the judge in a dispute through verbal and personal testimony of a person who is not a party to the trial.

Article 185 of KUHAP regulates that judges must focus on the following descriptions in determining the correctness witnesses:

1. "Testimony is the statement from witnesses in court.
2. The testimony of witnesses is insufficient to prove the defendant's guilt in the indictment.
3. The provisions of paragraph 2 are not applicable if other valid evidence is attached.
4. The testimony of several witnesses on events or circumstances can be means of valid evidence if connected in a way that justifies the existence of a particular event or circumstance.
5. Conjectures or opinions reached only through reasoning are not evidence.
6. In assessing the veracity of testimony, the judge must seriously consider:
   a. Consistency in the evidence of one witness compared to another witness;
   b. Correspondence between witnesses and other means of evidence;
   c. Matters that a witness may bring to face against a particular witness;
   d. The lifestyle and decency of the witnesses and everything that can generally impact the consideration of testimony correctness.
7. The unsworn testimony cannot be menas of evidence, although agreed by all parties. However, the unsworn testimony can be used as means of additional evidence to other means of valid evidence if following the sworn testimony."

The Indonesian Criminal Procedure Code (KUHAP) also regulates the parties who cannot be heard as witnesses and who can distance themselves from witnesses in Article 168 KUHAP:

a. Siblings or direct relatives to the third-degree relatives of the defendant or co-defendant.
b. The relatives of the defendant or co-defendant, the relatives of the mother's father or father's father, including those who intermarried with the children of the defendant's relatives to the third-degree relatives.
c. The defendant's husband or wife, even if they are divorced or a co-defendant.

The extent of witness testimony since the decision of the Constitutional Court Number: 65 / PUU-VIII / 2010, which states that Witness Statements, Article 1 number 26 and number 27; Article 65; Article 116 paragraph (3) and paragraph (4); and Article 184 paragraph (1) letter a of Law Number 8 of 1981 concerning the Criminal Procedure Code (Statute Book of the Republic of Indonesia of 1981 Number 76 and Supplement to the Statute Book of the Republic of 3209) does not have binding legal force and not interpreted including *"a*

[20] Tim Beranda Yusticia, 2018, *Kamus Istilah Hukum Superlengkap*, Yogyakarta:C-Klik Media, hlm.510-511"

person who can testify for the investigation, prosecution, and judicature of a criminal act that he does not constantly hear, see and experience it by himself". The definition of a witness in investigating a criminal act is no longer a person who heard, saw and experienced the event. However, a person who did not hear, see and experience the events can be a witness—provided that he has the required knowledge about the crime.

Investigators can testify because they are not among individuals who are prohibited from testifying in court. This provision is regulated in Articles 168 to 171 of KUHAP, concerning "Persons who can be heard as witnesses and can withdraw as witnesses."[21] In opposition to that article, the witness has the right to refute the information provided in the Police Investigation Report (BAP) by eliminating it. To prove the defendant's objection, the judge and the prosecutor's office arranged for witnesses to be presented to the Investigator (speech).

Oral testimony was included in the trial to answer the auditor. It was triggered by the judge's rejection of the judge's testimony on the appropriateness of the defendant's BAP, and the judge accomplished the sentence. The judge may ask the public prosecutor to examine verbalisan witnesses at the central court to provide information about the validity of the letter issued at the preliminary hearing.

According to the Boyolali district public prosecutor's offices Judge, the presence of verbalisan witnesses in the evidence of narcotics cases had encountered the "effectiveness" of providing investigative information as the defendant denied and could force the defendant to admit his guilt.

Regarding the Public Prosecutor of the Boyolali district public prosecutor's offices, the presence of verbalisan witnesses in the evidence of the narcotics case had encountered the "effectiveness" as the defendant denied the Investigation of the Police Investigation Report (BAP) and cannot prove what he had denied. There must be a mediator when the defendant has different reasons. The public persecutor (JPU) could retain a means of evidence of the "Defendant's Information" and maintain the Investigator of the Police Investigation Report (BAP).

In line with Drug Investigations Division of Boyolali Police Precinct, the presence of verbalisan witnesses in the evidence of the narcotics case had encountered the "effectiveness", to maintain the evidence of the "defendant's testimony". Furthermore, it becomes a mediator as the defendant denied the Investigator of the Investigation of the Police Investigation Report (BAP) either in part or whole.

As stated by advocates, the presence of verbalisan witnesses in testimony in drug abuse cases encountered "efficiency" as the judge was unsure and lacked confidence in deciding the case. Because of his suspicions and Judge's action in the case, the Judge frequently requested the prosecutor to call verbalisan witnesses. The verbalisan witnesses was the Investigator who conducted the investigation and filed the Investigation of Police Investigation Report (BAP).

Thus, if the researcher concluded the presence of verbalisan witnesses had encountered the effectiveness of the law, the defendant denied the Investigation of the Police Investigation Report (BAP) in part or whole. Furthermore, the defendant could not prove what he had denied. Besides the advantages as verbalisan witnesses were present in the evidence of narcotics cases in Boyolali, there were weaknesses, such as the status of verbalisan witnesses had not been established as a means of valid evidence according to the Criminal Procedure Code. There are differences of opinion among law enforcement officers because verbalisan witnesses are not regulated in the law, and

[21] Hukum online, *Keabsahan Penggunaan Tersangka Sebagai Saksi di Persidangan*, https://www.hukumonline.com/klinik/a/keabsahan-penggunaan-tersangka-sebagai-saksi-di-persidangan-lt50ec06251d12a , diakses tanggal 11 Oktober 2022, Pukul 19.00 WIB

the Criminal Procedure Code and other laws and regulations.

3.2 Verbalisan Witness Justice in proving narcotics cases in The Boyolali District Public Prosecutor's Offices

The discussion of law is inseparable from the discussion of justice. It is a certainty that justice must be guaranteed and contained in the law, in which the law cannot be separated from the ultimate goal for both the government and people's lives. Using laws or rules, people can live together with justice.[22] The concept of justice in the national law of the Indonesian nation is listed based on the state principle, namely the fifth principle of Pancasila, which reads: "Social Justice for all Indonesians".

In social institutions, justice is the most essential virtue, as is the truth in the philosophical system. If a theory is inaccurate, it should be rejected or changed; similarly, if laws and institutions are unjust, they must be changed or eliminated. Everyone has an honor based on justice that other civilizations cannot ignore. In this view, rights are denied when more significant benefits for others justify the loss of freedom for some.[23]

John Rawls considers Justice according to two principles, namely:

(1) The principle of freedom is the same as everyone has the same right to the greatest basic freedom; freedoms that are always the same for everyone, such as religious freedom, political freedom, freedom of thought and opinion (freedom of expression and clauses) and (2) the principle of diversity) are based on the principle of equal opportunity.[24]

John Rawls believed that the ideal social structure was a primitive society in which basic rights, freedoms, power, authority, opportunity, money, and wealth were achieved. This category of ideal social structures was applied to determine the fairness of existing social institutions. John Rawls stated that social conditions are the root cause of injustice; Therefore, it is crucial to investigate which principles of justice can be applied to generate Social and environmental justice.[25]

Plato implied that "the rule of law is an instrument of justice, and From that point on, all philosophers who spoke of justice meant justice." According to Plato, "leader acts like teacher and servant". Plato further explained: "Justice means that any group or class in society fulfils its duty, although, with the weakening of the state in timocracy, oligarchy, democracy, and tyranny, injustice may arise. Platon's concept of justice as morality means material justice, and procedural justice means moral justice as a means of defending the law.[26]

The distinction between substantive and procedural justice refers to procedure and purpose, not to explain the differences between the two justices. The procedural justice is different from substantive justice. Substantive law refers to substantive law, whereas procedural law refers to formal law or procedural law. What is fair by standards may not always be fair in reality.[27]

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[22] Asep Warlan Yusuf, 2015, *Artikel Kehormatan: Hukum dan Keadilan*, Jurnal Ilmu Hukum (Journal of Law), Vol. 2 No. 1, Dalam: Syaifuddin Zuhdi, 2021, *Trancendental Justice Law: The Relation of Law and Justice*, Journal of Transcendental Law, Vol. 3 No. 1, September

[23] John Rawls, *Op.Cit*, hlm. 7

[24] "Ana Suheri, 2018, *Wujud Keadilan dalam masyarakat ditinjau dari prespektif hukum nasional*, Jurnal Morality, Vol. 4 No. 1, Juni.

[25] Rayma Nurfalah, 2021, Keadilan Menurut John Rawls dan Penerapannya Dalam Sistem Hukum Indonesia, https://www.academia.edu/44872886/Keadilan_Menurut_John_Rawls_dan_Penerapannya_Dalam_Sistem_Hukum_Indonesia

[26] Shinta Ayu Purnawati, 2019, *Paradigma Hukum Yang Benar dan Hukum Yang Baik (Prespektif Desain Putusan Hakim Perkara Korupsi di Indonesia*), Hukum Pidana dan Pembangunan Hukum, Vol.1 No.2, April

[27] Indrajid Kurniawan, 2022, *Dimensi Keadilan Menurut Teori John Rawls (Tinjauan (Tinjauan Yuridis Undang-Undang Nomor 9 Tahun 1998 Tentang Kemerdekaan Menyampaikan Pendapat di Muka Umum).* Skripsi, Banjarmasin: Institutional Digital Repository.

John Rawls also formulated three characteristics of procedural justice:[28]

1. "*Perfect procedural justice* has two characteristics: (1) independent criteria as the result of a fair trial, and (2) procedures that ensure a fair outcome.
1. *Imperfect procedural justice* shares the characteristics of full procedural justice in advance. There are independent standards for justice, but no technique ensures justice.
2. *Pure procedural justice* describes a situation with no criteria for a fair outcome other than the trial itself."

If it was further investigated, the researchers concluded that Indonesia applies *Imperfect procedural* justice, considering criminal justice procedures in Indonesia. Due to imperfect procedural justice, a defendant must be found guilty if commited a crime following the crime accused. There are three models in procedural law theory. :[29]

1. *Outcome Model*, the basis of this model explains that procedural justice pursues the truth to proceed with an accurate outcome. For instance, in criminal justice procedures, the appropriate and correct outcome is to convict the guilty and acquit the innocent by applying the proper law and valid evidence.
2. *The Balancing Model,* the model's basis is a fair procedure by maintaining a fair balance between the costs of the procedure and the outcome achieved in the procedure.
3. *Participation Model*, the model's basis is to provide opportunities for parties participating in making decisions. The concrete example in the judicature is presenting at the trial, submitting sufficient evidence, examining testimony, etc.

Three models are connected to the fairness of verbalisan witnesses in the evidence of narcotics cases in Boyolali. (1) In the researcher's perspective, the presence of verbalisan witnesses follows the justice model, *Outcome Model*. The reason is that the presence of verbalisan witnesses reveals whether the defendant's denial of the Investigator of the BAP can be proven true or just guilt of the defendant. (2) In the researcher's perspective, the presence of verbalisan witnesses in the evidence of narcotics cases follows the justice model of *The Balancing Model*. The reason is that the presence of verbalisan witnesses can save the cost of trial of narcotics cases in Boyolali, which is not yet proven true. (3) In the researcher's perspective, the presence of verbalisan witnesses in the evidence of narcotics follows the *Participal Model*. The reason is that by the presence of verbalisan witnesses in the evidence of narcotics cases in boyolali, all parties have participated in the decision-making, among defendants, judges, investigators, and advocates.

Mardjono Reksodiputro stated that due process in Indonesian could be interpreted as a fair procedure. In addition, Mardjono Reksodiputro stated that it is not only in the form of formal laws or regulations (which are well compiled), but also includes guarantees of the right of every Indonesian citizen for independence. A. Hamzah also explained the importance of a truthful and impartial court that a judge should not discriminate people in functioning his profession. It means that judges, in functioning their profession, must constantly ensure that human rights are respected, especially for suspects and defendants in criminal cases.[30]

[28] Andri G. Wibisana, 2017, *Keadilan Dalam Satu (Intra) Sebuah Pengantar Berdasarkan Taksonomi Keadilan Lingkungan*, Mimbar Hukum, Vol. 29, No. 2, Juni."

[29] Agus Takariawan, *Op.Cit*, hlm. 57

[30] "Waluyadi, 1999, *Pengetahuan Dasar Hukum Acara Pidana*, Cet I, Bandung: Mandar Maju, hlm 27, Dalam: Akhmad Zubairy, 2021, *Reka Ulang Sebagai Alat Bukti Surat Oleh Penuntut Umum Dalam Perkara Pidana Berdasarkan Prinsip Due Process Of Law*, Jurnal Penegakan Hukum Indonesia, Vol.2 No.2, Juni.

In ensuring civil rights and establishing fair Judicature, it minimally includes as follows:

1. Protection is provided to the arbitrariness of government officials (abuse of power);
2. Only the court has the right to determine whether or not a suspect or defendant is guilty;
3. The trial court must be open to the public;
4. Security must be granted to suspects and defendants in self-defense.[31]

The judicial process model is a negative typological model that constantly emphasizes the formal limits of power. In this model, modifying how the dominant power model is employed is judicial power, which is always related to the constitution. The Due Process model has five characteristics that distinguish it from the anti-crime model, namely:

1. "*Prevention*
2. *Presumption of innocence*
3. *Formal-adjudicative*
4. *Legal guilt*
5. *Effectivity*"[32]

Some characteristics can demonstrate Indonesia's compliance with the principle of due process. According to the (formal) mandate of KUHAP, the task of investigating criminal cases is to find the material truth. Material truth is factual truth, which differs from the formal truth required in the civil code. This truth must be employed to find the truth itself, in which it is not distorted in favor of other interests, such as parties, groups, personal interests, or other interests. In the investigation, it will not be able to reach 100% of the revealed validity. The reason is that the one who knows the absolute facts is God, and the criminal justice on the examination agenda is tasked with finding as many facts as possible. Thus, it can approach the convincing truth of whether a criminal act has been committed.

According to the general understanding of society, testimony is an attempt to prove something by presenting all things to be proven to convince others. In general, the Evidentiary system is a set of rules about what nature of evidence can be employed, how evidence is distributed and employed. What type of means of evidence will be employed, and how the Judge makes decision in the district public prosecutor's offices.[33]

Concerning the evidentiary system related to KUHAP, Indonesia adheres to the negative evidentiary system (*Negatif Wettelijke Bewijs Theorie*) contained in Article 183 of KUHAP. It essentially explains that judges can only convict defendants if the evidence is limited by legislation and is supported by the Judge's substantive and procedural beliefs on the means of evidence submitted at trial.[34]

Article 183 of KUHAP regulates the determination of whether a defendant is guilty and imposing a sentence on the defendant:

1. "Guilt is proven with at least two means of valid evidence;
2. Due to evidence by at least two means of valid evidence, the Judge obtained a conviction that the crime occurred and the defendant committed the crime."[35]

[31] Mien Rukmini, 2003, *Perlindungan HAM Melaluo Asas Praduga Tidak Bersalah dan Asas Persamaan Kedudukan dalam Hukum pada Sistem Peradilan Pidana Indonesia*, Bandung: Alumni 2003, hlm. 32, Dalam: Eko Sulistiono, 2019, *Perlindungan Hukum Atas Hak-Hak Tersangka Pada Proses Penyidikan Perkara Pidana Dalam Prespektif Hak Asasi Manusia*, Jurnal Ilmu Hukum, Vol. 8 No. 2, Desember.

[32] Akhmad Zubairy, *Op.Cit*

[33] Rahman Amin, 2020, *Hukum Pembuktian dalam Perkara Pidana dan Perdata*, Sleman:CV BUDI UTAMA, hlm 13"

[34] "M. Khaerul, Amir Ilyas dan Audyana Mayasari Muin, 2022, *Sistem Pembuktian Pemalsuan Dokumen Dalam Tindak Pidana Pemilu di Indonesia*, Jurnal Living Law, Vol. 14 No. 1, Januari.

[35] Claudia Aprilia Samurine, 2019, *Implementasi Sistem Pembuktian Terbalik Dalam*

The following are the results of interviews with the Law Enforcement Officers of Boyolali and its surrounding areas regarding whether it is fair to present verbalisan witnesses in the evidence of narcotics cases in Boyolali:

4. CONCLUSION

Verbalisan witness is if the witness encounters the conditions regulated in Article 1 number 26, and 27 of KUHAP and is not excluded from testifying at a trial court. Articles 168 to 171 of KUHAP contain this condition. There are no rules prohibiting investigators from testifying in court. Article 185 paragraph (6) of KUHAP provides that the jury has a vital role in the examination of oral testimony, which requires the jury to carefully analyze the coherence of the oral testimony with other means of evidence and the reason is that the witness disclosed certain information. In the judge's decision, the appropriateness of witness testimony must be determined in-depth and logically. The Judges, Prosecutors, Police, Advocates have a different understanding regarding the position of verbalisan witnesses as evidence, based on interviews conducted by researchers, between becoming means of evidence in the form of "witness testimony" or "Instructions" as regulated in Article 184 paragraph (1) of KUHAP. The reason is that there are no regulations governing verbalisan witnesses.

The presence of verbalisan witnesses in proving the crime of narcotics cases fulfils the level of effectiveness of evidence because it can: (1) increase the judge's confidence in proving the crime of narcotics cases, (2) When the Defendant denies the Police Investigation Report (BAP) of Investigators and cannot prove what he has denied, (3) the Public Prosecutor can defend means of evidence, which is in the form of "Defendant's Testimony". The presence of verbal witnesses in proving the crime of narcotics cases is still in line with justice in proving narcotics cases because: (1) In proving the defendant's different testimony, (2) there must be a mediator, (3) Thus, the verbal witnesses provide information, and the judge heard directly from the verbal witnesses.

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