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Juridical Analysis of the Criminal Act of Distributing Trihexyphenidyl (Case Study: Decision Number 24/Pid.Sus/2024/PN Smn and Decision Number 288/Pid.Sus/2024/PN Yyk)

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Abstract: Trihexyphenidyl is a controlled drug prone to misuse, and its distribution without marketing authorization poses a serious threat to public health, particularly in the Special Region of Yogyakarta. This phenomenon frequently involves adolescents and presents significant challenges to law enforcement. This study aims to analyze the legal provisions, law enforcement practices, and sentencing disparities concerning offenders involved in the unauthorized distribution of Trihexyphenidyl, based on Decision Number 24/Pid.Sus/2024/PN Smn and Decision Number 288/Pid.Sus/2024/PN Yyk. The research employs a normative legal method through literature review and statutory analysis, complemented by an empirical approach involving interviews with law enforcement officials and the National Agency of Drug and Food Control (BPOM), as well as case studies of the two court decisions. The analysis is conducted qualitatively and descriptively. Both decisions affirm that unauthorized distribution constitutes a formal offense; however, sentencing disparities are evident, influenced by factors such as the offender's role, the quantity of evidence, and mitigating circumstances. The primary challenges include proving mens rea, weak regulatory oversight, and the prevalence of online distribution. Law enforcement has recognized the unauthorized distribution of Trihexyphenidyl as a serious crime; nonetheless, consistency in sentencing and the strengthening of local regulations are required to close legal loopholes and enhance deterrence.

Keywords: Drug Distribution; Health Law; Trihexyphenidyl

1. Introduction

Trihexyphenidyl is an anticholinergic drug commonly prescribed to treat symptoms of Parkinson's disease and other movement disorders. However, in recent years, there has been a significant increase in the misuse of this drug, particularly among adolescents in the Special Region of Yogyakarta. According to data from the Provincial National Narcotics Agency (BNNP) of the Special Region of Yogyakarta, the number of narcotics-related suspects rose from 24 individuals in 2022 to 45 individuals in 2024. Furthermore, in 2023, the Food and Drug Supervisory Agency of the Special Region of Yogyakarta reported the successful uncovering of cases involving the distribution and misuse of dangerous drugs, including Trihexyphenidyl, with millions of pills seized as evidence. The misuse of Trihexyphenidyl is often associated with the euphoric effects it produces when consumed in high doses, which can lead to hallucinations and aggressive behavior. This trend demonstrates that although Trihexyphenidyl is not classified as a narcotic or psychotropic substance under Indonesian law, in practice its misuse mirrors the patterns of abuse found in narcotics and psychotropic crimes. Both categories involve illegal circulation, addictive effects, and harmful consequences for public

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health and security. Therefore, analyzing the case of Trihexyphenidyl distribution without marketing authorization is relevant to the broader problem of narcotics and psychotropic crimes in Indonesia, as it highlights systemic weaknesses in regulation, oversight, and law enforcement. This phenomenon raises serious concerns due to its detrimental impact on public health and public order (Indranila, 2023).

The distribution of Trihexyphenidyl without marketing authorization in the Special Region of Yogyakarta has shown an alarming trend. The Food and Drug Supervisory Agency (BPOM) of the Special Region of Yogyakarta recorded that the majority of cases involving the misuse of certain prescription-only medicines (OOT) in the region are linked to Trihexyphenidyl. This drug is often found in pill form without official labeling, commonly referred to as "pil Y." These pills are suspected to originate from illegal production and lack the requisite marketing authorization from BPOM (Dion, 2022). This condition indicates the existence of gaps in the oversight of drug distribution and underscores the need for stricter law enforcement against perpetrators involved in the circulation of illegal drugs.

From the perspective of positive law in Indonesia, the distribution of prescription drugs without marketing authorization constitutes a serious violation of the prevailing legal provisions and is classified as a criminal offense in the field of health. The legal framework governing this matter is explicitly stipulated in Law Number 36 of 2009 concerning Health. This law contains legal norms regulating all aspects of health administration, including provisions on the production and distribution of pharmaceutical preparations and medical devices (Hadiyanto, 2022). Specifically, Article 197 of the said Law stipulates that "Any person who intentionally manufactures or distributes pharmaceutical preparations and/or medical devices without marketing authorization shall be subject to imprisonment for a maximum of fifteen (15) years and a fine of up to IDR 1,500,000,000 (one billion five hundred million rupiah)" (Undang-Undang Nomor 36 Tahun 2009 tentang Kesehatan). This provision demonstrates that marketing authorization is a fundamental requirement in the distribution of pharmaceutical preparations, serving as a form of state oversight to ensure the safety, quality, and efficacy of medicines for the public. A violation of this provision is not merely an administrative offense but is classified as a criminal act, carrying severe criminal sanctions (Mertokusumo, 2010).

Furthermore, Article 196 of the same Law provides that "Any person who intentionally manufactures or distributes pharmaceutical preparations and/or medical devices that do not meet the standards and/or requirements of safety, efficacy, or quality shall be subject to imprisonment for a maximum of ten (10) years and a fine of up to IDR 1,000,000,000 (one billion rupiah)." This provision underscores that, in addition to marketing authorization, compliance with quality and safety standards for pharmaceutical products is a non-negotiable requirement, given its potential to endanger human life. Consequently, any individual who manufactures or distributes prescription drugs not only without marketing authorization but also failing to meet quality and safety standards may be subject to cumulative charges. Both of these articles embody the *precautionary principle* in health law, which aims to protect the public from risks arising from the circulation of illegal pharmaceutical products. Law enforcement against viola-

tions of these provisions also serves as an indicator of the state's commitment to upholding the rule of law and ensuring the right to health for every citizen, as guaranteed under Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia. However, in practice, the enforcement of laws against the distribution of Trihexyphenidyl without marketing authorization faces significant challenges, including issues of evidence, differences in legal interpretation, and inconsistency in sentencing by the courts. One of the primary challenges for law enforcement officials is proving the element of intent (*mens rea*)—that is, whether the perpetrator was fully aware that the drug being distributed lacked marketing authorization from the competent authority, such as the Food and Drug Supervisory Agency (BPOM). In Indonesian criminal law, proving intent is a crucial element that must be established to convict a defendant, especially in formal offenses such as the distribution of drugs without marketing authorization. This difficulty is further compounded by weak oversight of drug distribution at the field level and the lack of public and vendor awareness regarding the legality of pharmaceutical products (Hamzah, Asas-Asas Hukum Pidana, 2020).

A concrete manifestation of these challenges can be observed in the counterfeit vaccine distribution case uncovered in 2016, which exposed the weaknesses in Indonesia's drug distribution oversight system. In this case, of the 14 hospitals identified by the Criminal Investigation Agency of the Indonesian National Police as being involved in the distribution of counterfeit vaccines, only one was accredited, while of the two hospitals announced by BPOM to have used counterfeit vaccines, only one held the lowest or initial level of accreditation. This case revealed a significant gap between regulatory oversight frameworks and their practical implementation in the field, where many pharmacists were not involved in the procurement process, allowing hospital management to claim ignorance regarding the identity of government-appointed licensed pharmaceutical wholesalers. This situation demonstrates how the element of intent (*mens rea*) can be difficult to prove when perpetrators can plead ignorance of the legality of the pharmaceutical products they distribute, ultimately complicating law enforcement efforts and hindering the imposition of consistent criminal sanctions (Kompas, 2016).

In addition to evidentiary challenges, differences in the interpretation of applicable legal norms often serve as a source of inconsistency in law enforcement. For instance, some judges construe the element of "without marketing authorization" narrowly, focusing solely on the existence of a license issued by BPOM, while others interpret it more broadly by taking into account the level of due diligence exercised by the perpetrator in obtaining and distributing the drug. This demonstrates that the legal norms contained in Law Number 36 of 2009 on Health, as well as the criminal provisions in Articles 197 and 196 of the Law, still leave considerable room for interpretation, thereby creating a vulnerability to disparities in court decisions (Mulyadi, Hukum Pidana Khusus, 2010).

As an illustration, in Decision Number 24/Pid.Sus/2024/PN Smn, the panel of judges imposed a sentence of one (1) year of imprisonment and a fine of IDR 10,000,000 on the defendant found guilty of distributing the prescription drug Trihexyphenidyl without marketing authorization. This decision drew public attention for being con-

sidered disproportionately lenient when compared to the potential dangers of the drug's misuse, particularly in the context of abuse among adolescents and young adults who often use Trihexyphenidyl as a substitute for other addictive substances. The ruling also raises serious questions regarding the consistency and effectiveness of law enforcement in providing a deterrent effect on offenders and in protecting the public from the adverse impacts of illegal drug distribution (Widyaningsih, 2022).

Previous studies have consistently shown that the phenomenon of Trihexyphenidyl distribution without marketing authorization is not confined to a single region, such as the Special Region of Yogyakarta, but has spread to various areas across Indonesia, indicating that this issue is systemic and requires a comprehensive countermeasure approach. For example, research conducted in the city of Palu revealed that the unregulated circulation of Class G drugs, particularly Trihexyphenidyl, has become a critical concern in the context of public health and law enforcement. Trihexyphenidyl, which is classified under a certain category of psychotropic substances, is frequently misused by adolescents and marginalized groups due to its euphoric effects, and its distribution without marketing authorization can have serious social consequences, including an increase in drug abuse rates and drug-related criminal activities (Sumarni, 2022).

To the best of the author's knowledge, there has been no comprehensive study that specifically addresses the distribution and misuse of the prescription drug Trihexyphenidyl without marketing authorization from a juridical perspective, particularly one that examines the normative framework, the effectiveness of legal implementation, and the technical challenges faced by law enforcement authorities. Yet, the phenomenon of the illegal circulation of this drug, especially among adolescents, has shown a significant increase and poses serious threats to public health and public order. The positive legal provisions governing this matter are explicitly stipulated in Law Number 36 of 2009 on Health, particularly Articles 196 and 197. In practice, however, law enforcement still faces various obstacles, such as difficulties in proving the element of intent, divergent juridical interpretations, and inconsistencies in sentencing by the courts. Without an in-depth analysis, many aspects remain to be further examined, including regulatory loopholes, the effectiveness of inter-agency coordination among law enforcement bodies, and the urgency of adopting preventive approaches in combating the distribution of illegal drugs (Siahaan, Batubara, Panggabean, Sinulingga , & Gea, 2022).

Thus, this research is both important and urgent to undertake in order to provide a scholarly contribution in the form of a juridical analysis of the applicable legal provisions, the effectiveness of law enforcement, and the identification of weaknesses in both regulation and implementation. Based on this background, the author is interested in further examining the juridical provisions and legal application concerning the distribution of the prescription drug Trihexyphenidyl without marketing authorization, by taking as a case study Decision Number 24/Pid.Sus/2024/PN Smn. This study will be presented in the form of an academic work in the form of a thesis proposal entitled: "Juridical Analysis of the Criminal Act of Distributing Trihexyphenidyl (Case

Study: Decision Number 24/Pid.Sus/2024/PN Smn and Decision Number 288/Pid.Sus/2024/PN Yyk)."

2. Materials and Methods

This study employs a normative legal method through literature review and regulatory analysis, particularly focusing on Articles 196 and 197 of Law Number 36 of 2009 on Health, to examine the implementation and effectiveness of sanctions against the distribution of prescription drugs without marketing authorization in the Special Region of Yogyakarta (Marzuki, 2017). In addition, an empirical approach is applied through interviews with law enforcement officials, the Food and Drug Supervisory Agency (BPOM), and analysis of statistical data on Trihexyphenidyl abuse. A statutory approach combined with case studies of Decision Number 24/Pid.Sus/2024/PN Smn and Decision Number 288/Pid.Sus/2024/PN Yyk is employed to assess the consistency of legal application. Data are obtained from primary, secondary, and tertiary legal materials, collected through literature study, and analyzed qualitatively and descriptively to compare positive law with its practical implementation in the field, while also providing policy recommendations for more effective criminal measures to curb the distribution of prescription drugs among adolescents (Soekanto & Mamudji, 2021).

3. Results and Discussion

3.1. Legal Application in Decision Number 24/Pid.Sus/2024/PN Smn and Decision Number 288/Pid.Sus/2024/PN Yyk Concerning the Criminal Offense of Distributing Prescription Drugs of the Trihexyphenidyl Type

The circulation of pharmaceutical preparations without authorization, particularly controlled drugs such as Trihexyphenidyl, constitutes a serious concern within the scope of criminal health law in Indonesia. This drug is classified as a Class G psychotropic substance, the use of which must be strictly supervised by qualified healthcare professionals, such as physicians and pharmacists. Trihexyphenidyl itself is primarily indicated as an adjunctive therapy for Parkinson's disease, as well as for controlling extrapyramidal side effects resulting from the use of antipsychotic medications. Nevertheless, the misuse of this drug outside its prescribed medical indications can induce euphoria, hallucinations, and psychological dependence, which, in the long term, may lead to mental health disorders and deviant behavioral patterns among individuals who consume it without proper medical oversight (Saraswati, 2021).

The illegal distribution of hard drugs such as Trihexyphenidyl contains elements of a *formal offense*, meaning that the fulfillment of the elements of such an act does not require the occurrence of any tangible consequences arising from the conduct (for instance, the emergence of victims or direct detrimental effects). The mere existence of the intent to sell or distribute without authorization is sufficient for the perpetrator to be subject to criminal prosecution. This aligns with the doctrine of *strict liability* in special criminal law, whereby the subjective element of fault (*mens rea*) may be applied with less stringency compared to general criminal offenses, in order to safeguard public health interests (Hamzah, Hukum Pidana Khusus, 2020).

In the practice of law enforcement, court decisions serve as a concrete reflection of how legal norms are implemented. Decision Number 24/Pid.Sus/2024/PN Smn and Decision Number 288/Pid.Sus/2024/PN Yyk are two examples of criminal cases that illustrate the judicial approach to violations involving the unauthorized distribution of hard drugs. In the first case, the court imposed a custodial sentence on the defendant who was proven, lawfully and convincingly, to have engaged in the distribution of hard drugs without possessing a valid marketing authorization from the competent authority. In the second case, the panel of judges emphasized that the defendant's act of selling Trihexyphenidyl online without a doctor's prescription constituted negligence that endangered public safety, and therefore warranted criminal sanctions pursuant to Article 197 of the Health Law.

Both decisions underscore the importance of the principle of legal protection for the public within the health sector. From the perspective of utilitarian legal theory, criminal law in this context functions as a means to prevent greater harm, namely the abuse of hard drugs that may trigger a mental and social health crisis in the community. Accordingly, the repressive approach through criminal sanctions is not only intended to punish the offender but also to produce a deterrent effect and to remind the public of the importance of regulatory compliance in the distribution of hard drugs (Rahardjo, 2016).

Furthermore, from the perspective of legal effectiveness, these two decisions demonstrate that the criminal justice system has taken an active role in combating the illegal circulation of pharmaceuticals. Nevertheless, it should be emphasized that the success of law enforcement is determined not only by the aspect of criminal sanctions but also by preventive measures such as public education, enhanced supervision of pharmaceutical distribution, and the empowerment of law enforcement officers to acquire a proper understanding of the technical and medical aspects related to pharmaceutical preparations.

Both normatively and empirically, the issue of the illegal circulation of hard drugs also reveals challenges in inter-agency coordination. For instance, the Food and Drug Supervisory Agency (BPOM), the police, and local health authorities often encounter obstacles in coordinating inspections and market supervision. Moreover, the ease of access to hard drugs through online platforms further complicates early detection efforts and the disruption of illegal distribution networks.

a. Analysis of the Elements of the Criminal Offense in Decision Number 24/Pid.Sus/2024/PN Smn and Decision Number 288/Pid.Sus/2024/PN Yyk

In the two aforementioned decisions, namely Decision Number 24/Pid.Sus/2024/PN Smn and Decision Number 288/Pid.Sus/2024/PN Yyk, the panel of judges adjudicated the criminal cases by imposing sentences on the defendants pursuant to Article 435 in conjunction with Article 138 paragraphs (2) and (3) of Law Number 17 of 2023 concerning Health. These provisions expressly prohibit any person from unlawfully producing, storing, distributing, and/or circulating pharmaceutical preparations that do not meet the standards and/or requirements of safety, efficacy or benefit, and quality, without possessing the expertise and authority as stipulated by statutory regulations.

Normatively, the elements set forth in Article 435 in conjunction with Article 138 of

the 2023 Health Law can be classified into two main categories: subjective elements and objective elements. The subjective element generally relates to the fault of the perpetrator, namely the aspect of intent or *mens rea*, whereas the objective element concerns the conduct or actions of the perpetrator (*actus reus*) and their legal consequences. However, in the context of this provision, it is noteworthy that the offense in question is characterized as a *formal delict*, meaning that no consequence arising from the criminal act is required in order for it to constitute an offense. It is sufficient to prove that the act of producing, storing, distributing, and/or circulating pharmaceutical preparations without the requisite authorization and expertise has been committed, for the elements of the offense to be deemed fully satisfied (Hamzah, 2020).

This differs from a *material delict*, in which the law requires proof of the consequences or harm resulting from the perpetrator's actions. In a *formal delict*, as stipulated in Article 435, the law seeks to prevent potential harm from the outset through a prohibition on conduct that has already been identified by the legislature as dangerous, even if it has not yet produced any actual consequences for society (Arief, 2017).

The characterization of this offense as a *formal delict* implies the application of the principle of *strict liability*, namely a doctrine in criminal law under which the element of fault or criminal intent (*dolus* or *culpa*) is not a prerequisite for declaring a person guilty. This principle is commonly found in *regulatory offences*, such as environmental law, traffic law, and health law, whose primary objective is the protection of the public interest at large (Muladi & Arief, 2010). In this context, the State has a vested interest in protecting the public from the circulation of illegal pharmaceutical products that pose risks to public health. The application of strict liability under the 2023 Health Law reflects a strong public policy in controlling the distribution of medicines and pharmaceutical preparations. This aligns with the spirit of the welfare state in the health sector, which places public safety and the right to health as paramount values, such that any disregard for legal procedures by offenders cannot be tolerated, even in the absence of proven intent or criminal purpose. Consequently, in the process of criminal proof, the public prosecutor need only demonstrate that the perpetrator committed one of the prohibited acts as stipulated in the relevant article, without the need to prove consequences or the underlying motivation.

Furthermore, the application of the *strict liability* principle does not imply the neglect of the defendant's rights in the judicial process. The court must still consider exculpatory factors such as *invincible ignorance* or *overmacht* (force majeure), if they are proven during the trial. However, in practice, such exceptions are very limited, given that the provisions of the Health Law are preventive in nature and emphasize the formal fulfillment of licensing, expertise, and quality standards (Soesilo, 1991).

In the two aforementioned decisions, the panel of judges explicitly affirmed that the defendants did not possess a valid marketing authorization or legally recognized pharmaceutical qualifications as required under Article 138 of Law No. 17 of 2023. Such omission is, as a matter of law, sufficient to establish the existence of an unlawful act. This demonstrates that the structure of criminal offenses under the Health Law is, in substance, more administrative in nature, yet remains subject to the mechanisms and principles of substantive criminal law.

Furthermore, in its considerations, the panel of judges stated that the elements of the offense had been fulfilled, namely the element of "any person," the element of "intentionally distributing pharmaceutical preparations," and the element of "without authorization." These three elements were proven through a series of evidentiary items presented at trial. Such evidence included digital communications between the defendants and buyers obtained from the seizure of mobile phones during arrest, digital financial transactions via the DANA application, as well as testimony from the arresting officers and other witnesses closely related to the factual construction of the case. The lawful and relevant acquisition of such evidence met the requirements of Article 184 paragraph (1) of the Indonesian Criminal Procedure Code (KUHAP) regarding admissible evidence to establish the defendant's guilt, namely witness testimony, expert testimony, documentary evidence, indicia, and the defendant's own statements.

In addition, the fact that no defense or objection (*eksepsi*) was filed by the defendants or their legal counsel strengthened the position of the public prosecutor in proving the charges. The defendants' passive stance during the trial—by neither challenging the indictment nor providing any significant mitigating statements—led the panel of judges to impose sentences proportionate to the degree of culpability of each defendant.

From a criminal law perspective, this case illustrates the application of the *strict liability* principle in health law, whereby violations of drug distribution regulations do not require proof of criminal intent (*mens rea*) as an absolute prerequisite, but rather suffice with the establishment of an unlawful act that threatens public health. Trihexyphenidyl, classified as a hard drug, possesses therapeutic potential but also exhibits psychotropic effects when consumed inappropriately with respect to dosage and medical indications. Accordingly, the distribution of such drugs without adequate control may trigger social consequences such as abuse among adolescents, dependency, and psychiatric disorders ranging from mild to severe.

Within the framework of criminal policy, the imposition of criminal sanctions on offenders in cases such as this forms part of *penal policy*, aimed at creating a deterrent effect while simultaneously protecting the public from the threat of pharmaceutical abuse. This approach is consistent with the utilitarian theory in criminal law as advanced by Jeremy Bentham, whereby the purpose of punishment is to achieve the greatest possible benefit for society through the prevention of crime and the safeguarding of public interests (Bentham, 2017). By imposing criminal sanctions on perpetrators of illegal drug distribution, the State fulfills its protective function in safeguarding public health as part of the fundamental human right to health. This decision also reflects the judiciary's consistency in combating the illicit circulation of hard drugs, which, in recent years, has shown an upward trend. According to data from the Food and Drug Supervisory Agency (BPOM), the abuse of hard drugs without a prescription among adolescents has increased significantly, largely due to the ease of access via digital platforms and weak oversight of informal distribution channels. Therefore, preventive measures must be strengthened through digital monitoring, the enhancement of public health literacy, and strict sanctions against offenders, as exemplified in this decision.

b. Comparative Analysis of Sanction Implementation

A comparison of the application of criminal sanctions in the two court decisions—Decision Number 24/Pid.Sus/2024/PN Smn and Decision Number 288/Pid.Sus/2024/PN Yyk—reveals a significant disparity in the length of prison sentences imposed on the defendants. In the case before the Semarang District Court (PN Smn), both defendants—Marckis Tri Arianto Wibowo and Wahyu Prasetyo—were each sentenced to four (4) years' imprisonment. Conversely, in the case before the Yogyakarta District Court (PN Yyk), the sole defendant, Dimas Septian Nurwahid, was sentenced to only two (2) years and six (6) months' imprisonment. This difference raises important questions regarding the principles of legal certainty and substantive justice within the Indonesian criminal justice system.

This disparity can be better understood through the analysis of several key variables commonly employed in sentencing theory, such as the number of perpetrators, the economic value of the illegal transactions, the role or position of each perpetrator within the structure of the offense, as well as other juridical and non-juridical factors influencing judicial considerations in imposing criminal sanctions. First, the number of perpetrators has a direct correlation to the assessment of the degree of culpability (*schuld*) attributed. In the PN Smn case, the crime was committed jointly by two individuals, demonstrating the existence of a shared intent (*collective mens rea*), which in judicial practice is often regarded as a more organized and systematic form of crime, and therefore potentially more damaging (Muladi & Arief, 2010).

Second, in terms of the economic value of the transaction, the court may consider the magnitude of the profits obtained by the offender as an indicator of the degree of intent (*dolus*) and the level of professionalism in committing the unlawful act. Although precise data regarding the transaction value is not explicitly detailed in the judgment, indications of large-scale transactions in the PN Smn case served as one of the grounds for the judges to impose a heavier sentence. Third, the offender's role in the commission of the crime is also a significant determinant. In the PN Smn case, one of the defendants acted as the coordinator of the distribution chain, whereas the defendant in the PN Yyk case functioned more as a technical executor or courier. Under the theory of criminal liability, the principal offender (*intellectuele dader*) bears a greater degree of responsibility compared to an accessory or field-level executor (*materiële uitvoerder*) (Hamzah, 2008).

Fourth, the availability of evidence also constitutes an important factor. Comprehensive and convincing evidence not only supports strong proof of guilt but also enables the judges to elaborate further on the modus operandi, the offender's intent, and the potential impact of the crime. In the PN Smn case, more physical evidence was found—such as hundreds of Trihexyphenidyl tablets, communication devices, and transaction records—which reinforced the judges' conviction regarding the scale and organizational structure of the offense (Mulyadi, 2015).

Fifth, personal mitigating and aggravating factors also constitute judicial considerations. In the PN Yyk case, the defendant was found to have demonstrated a cooperative attitude, admitted to the offense, and had family dependents—factors indirectly

regarded as grounds for mitigation (verzachtende omstandigheden). This aligns with the principle of individualized sentencing, whereby punishment must be adjusted to the defendant's personal circumstances and background (Arief, 2017).

From a socio-legal perspective, the distribution of controlled drugs such as Trihexyphenidyl without official authorization constitutes a criminal act with far-reaching consequences for public health. Trihexyphenidyl is a pharmaceutical preparation classified as a prescription-only medicine, commonly used in the treatment of neurological disorders such as Parkinson's disease. However, when used without proper medical supervision, this drug can produce serious adverse effects, including hallucinations, euphoria, and, in the long term, may lead to mental disorders or psychological dependence (Suciati, 2020). Therefore, judges generally take into account the collective impact of an offense on society as a basis for imposing heavier sentences, particularly when the crime concerns public health issues of a broad and massive scope. The urgency of imposing severe penalties can also be explained through the legal utilitarianism approach, particularly the deterrence theory, which emphasizes that criminal sanctions must be capable of creating a deterrent effect, both general and specific, on the offender and the wider community. In the context of the PN Smn case, the imposition of a severe penalty was intended to produce a deterrent effect against the widespread misuse of pharmaceutical preparations, which has increasingly proliferated among urban communities and youth.

Nevertheless, disparities in the application of sanctions also give rise to criticism regarding potential inconsistencies in law enforcement, particularly in relation to the principle of equality before the law. When two offenders committing similar types of criminal acts receive significantly different sentences, it raises questions about the objective standards in the application of justice. In this regard, strengthening the national sentencing guidelines is essential to provide a more standardized reference for judges in imposing penalties, thereby reducing sentencing disparities and enhancing the legitimacy of the criminal justice system (Hanim, 2019).

3.2. Juridical Provisions Regarding the Criminal Offense of Distributing the Hard Drug Trihexyphenidyl in the Special Region of Yogyakarta

The legal regulation of the distribution of prescription drugs without authorization, including Trihexyphenidyl, constitutes a concrete manifestation of the State's role in safeguarding the right to public health. Within the national legal system, the distribution of pharmaceutical products that does not comply with established procedures is not merely classified as an administrative violation but also as a criminal act that endangers public safety. Consequently, the State considers it imperative to enforce strict regulations governing the procurement and distribution of prescription drugs as a constitutional responsibility to ensure the highest attainable standard of public health, as mandated in Article 28H paragraph (1) and Article 34 paragraph (3) of the 1945 Constitution of the Republic of Indonesia.

In regional contexts such as the Special Region of Yogyakarta, the unauthorized distribution of prescription drugs such as Trihexyphenidyl has emerged as a criminal phenomenon necessitating a firm juridical response. Trihexyphenidyl is an anticholiner-

gic medication commonly prescribed for the treatment of Parkinson's disease or to alleviate extrapyramidal side effects resulting from antipsychotic drugs. However, it is also known to possess psychoactive effects, making it susceptible to abuse for recreational purposes, particularly among adolescents and students. Such misuse not only constitutes a violation of health law provisions but may also lead to public disorder and an increase in substance-related criminality.

Under the positive legal framework of Indonesia, the distribution of prescription drugs such as Trihexyphenidyl is governed by a range of legislative instruments, encompassing both health law and criminal law domains. These regulations serve a dual function—preventive and repressive—aimed at both deterring and legally prosecuting any form of deviation in the distribution of pharmaceutical products.

a. Law Number 36 of 2009 concerning Health

One of the principal legal foundations governing the circulation of pharmaceutical products is Law Number 36 of 2009 concerning Health, particularly Article 98 paragraphs (2) and (3), which stipulate that the manufacture and distribution of pharmaceutical preparations may only be carried out by qualified personnel holding official authorization, namely pharmaceutical professionals such as pharmacists. The criminal sanctions for violations of these provisions are explicitly regulated in:

Article 196, which provides that: "Any person who intentionally manufactures or distributes pharmaceutical preparations and/or medical devices that do not meet the standards and/or requirements for safety, efficacy or usefulness, and quality as referred to in Article 98 paragraphs (2) and (3), shall be subject to imprisonment for a maximum of 10 years and a fine of up to IDR 1,000,000,000."

Article 197, which stipulates that: "Any person who intentionally manufactures or distributes pharmaceutical preparations and/or medical devices without a distribution permit shall be subject to imprisonment for a maximum of 15 years and a fine of up to IDR 1,500,000,000."

These provisions emphasize that the possession of a valid distribution permit and compliance with quality standards constitute the primary parameters of legality in pharmaceutical manufacturing and distribution activities. Any breach of these requirements is intolerable, given its substantial potential to endanger public safety at large.

b. Regulation of the Minister of Health Number 919/Menkes/Per/X/1993

A more technical regulation regarding the classification of medicines and their distribution mechanisms is stipulated in the Regulation of the Minister of Health of the Republic of Indonesia Number 919/Menkes/Per/X/1993 concerning the Criteria and Procedures for Drug Classification, which states that prescription-only medicines may only be dispensed based on a doctor's prescription and under the supervision of a professional pharmaceutical worker, namely a pharmacist. In this regulation, Trihexyphenidyl is classified as a prescription-only medicine, marked with a red circle containing the letter "K," and may only be sold in pharmacies under direct supervision. This provision aims to prevent the misuse of prescription medicines by unqualified parties, while also empha-

sizing that the supervision of drug distribution is not only the responsibility of medical personnel but also an integral part of the national health law enforcement system.

c. Law Number 35 of 2009 on Narcotics

The regulatory framework governing the circulation of prescription drugs such as Trihexyphenidyl reveals a significant disparity that has the potential to create dangerous legal loopholes. Trihexyphenidyl is not classified as a narcotic under Law No. 35 of 2009, but rather as a "Certain Medicine" (Obat-Obat Tertentu, OOT), which falls outside the scope of the Narcotics Law, despite possessing an abuse potential comparable to that of psychotropic substances. This categorical distinction results in inconsistent regulatory treatment: narcotics are subjected to stringent oversight through the e-Pharm system, which facilitates import–export licensing as well as the reporting of production and distribution activities, with severe criminal sanctions of up to 20 years' imprisonment; by contrast, Trihexyphenidyl is monitored solely by the National Agency of Drug and Food Control (BPOM) under the Health Law, with a maximum penalty of 12 years' imprisonment and without any dedicated integrated tracking system.

Nevertheless, the Special Region of Yogyakarta (DIY) currently lacks a Regional Regulation (Peraturan Daerah) specifically addressing the circulation of prescription drugs such as Trihexyphenidyl, resulting in supervisory measures that remain heavily dependent on the implementation of national-level regulations. This structural weakness indicates the necessity of strengthening local regulations through the enactment of a dedicated Regional Regulation governing the monitoring and control of OOT distribution, the development of an integrated information system for tracking prescription drug circulation, the enhancement of supervisory personnel capacity, and the implementation of public education programs on the dangers of prescription drug abuse. Although inter-agency coordination in DIY has been functioning effectively with a balanced preventive–repressive approach, the optimization of prevention and enforcement against the illegal distribution of prescription drugs such as Trihexyphenidyl requires more concrete and operational legal instruments at the regional level to reinforce the existing national regulations. Such measures would help establish a more comprehensive and responsive supervisory system capable of addressing the dynamics of prescription drug circulation at the local level.

The Special Region of Yogyakarta is by no means free from illegal prescription drug circulation. Cases involving the unauthorized sale of Trihexyphenidyl frequently emerge and draw the attention of law enforcement authorities. One notable example is reflected in Decision No. 288/Pid.Sus/2024/PN Yyk, in which the defendant was convicted for distributing Trihexyphenidyl without possessing the requisite pharmaceutical expertise and without official distribution authorization from BPOM. In this ruling, the panel of judges explicitly referred to Article 197 of the Health Law, taking into account the social conditions of a community that is vulnerable to prescription drug abuse. The adoption of a repressive approach in this case reflects the judicial stance that violations of pharmaceutical distribution regulations constitute not merely administrative infractions, but formal offences (delik formil) that can be prosecuted without the need to prove actual harm to specific victims. Moreover, the legal approach adopted by law enforcement authorities in Yogyakarta demonstrates a "zero tolerance" policy toward illegal pharmaceutical distri-

bution, aligning with the vision of the national health system to ensure patient safety and prevent the escalating crisis of substance abuse.

4. Conclusions

The application of law against perpetrators involved in the distribution of hard drugs such as Trihexyphenidyl in the two court decisions demonstrates that the Indonesian criminal justice system has recognized the circulation of pharmaceutical preparations without marketing authorization as a serious offense that poses a threat to public health. The judgments of the Semarang District Court and the Yogyakarta District Court affirm the fulfillment of the criminal elements as stipulated in Article 435 in conjunction with Article 138 paragraphs (2) and (3) of Law Number 17 of 2023 concerning Health. However, a disparity in sentencing is evident, raising questions about the consistency and effectiveness of law enforcement. The imposition of penalties on each defendant predominantly emphasized the formal aspect, namely the proven circulation without authorization, without sufficiently considering the actual impact on victims or society, and without fully demonstrating an optimal deterrent effect on the offenders. The legal provisions governing the circulation of hard drugs such as Trihexyphenidyl in Indonesia, particularly in the Special Region of Yogyakarta, are explicitly regulated under Law Number 36 of 2009 on Health and Law Number 17 of 2023. Articles 196 and 197 of the Health Law stipulate that the distribution of pharmaceutical products without marketing authorization or without meeting quality and safety standards constitutes a crime punishable by imprisonment and substantial fines. Nevertheless, in practice, the implementation of these legal provisions still encounters challenges, such as weak supervision of distribution, low public legal awareness, and difficulties in proving the element of *mens rea*. This situation is further exacerbated by the widespread circulation of illegal drugs through social media and digital platforms, which are not yet fully accessible to conventional monitoring systems.

Therefore, recommendations are necessary to strengthen the role of judges and prosecutors in imposing criminal sanctions that are more proportional and equitable. Such recommendations include: (1) the formulation of specific sentencing guidelines for cases involving the distribution of hard drugs without marketing authorization, thereby providing judges with clear references to balance legal certainty, utility, and justice; (2) the enhancement of prosecutors' technical capacity through training on pharmaceutical and health aspects, in order to sharpen prosecution in proving the elements of the offense; and (3) the optimization of inter-institutional coordination, particularly among BPOM, the police, and the prosecution service, to reinforce the quality of evidence and prevent sentencing disparities. In this way, court decisions will not only be repressive but will also provide a genuine deterrent effect while ensuring substantive justice for society.

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