

APPLICATION OF THE TERRITORIAL PRINCIPLE TOWARDS FOREIGN CITIZENS WHO COMMIT NARCOTICS CRIMES IN THE JURISDICTION OF THE BADUNG RESORT POLICE

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Abstract

Regarding the application of the territorial principle to narcotics offenses committed by foreign nationals within the jurisdiction of the Badung Resort Police, such offenses fall under Indonesian jurisdiction and can be prosecuted in Indonesia pursuant to Article 5 of the Criminal Code (KUHP). If a narcotics offense occurs within Indonesian territory, the suspect may be legally prosecuted in Indonesia. Furthermore, under Article 4, point 1 of the new Criminal Code—specifically Law of the Republic of Indonesia Number 1 of 2023—any person who commits a criminal offense within the territory of the Unitary State of the Republic of Indonesia may be prosecuted under Indonesian criminal law if apprehended by Indonesian law enforcement authorities. Data indicating the continued annual emergence of new cases suggests that the law enforcement efforts undertaken by the Badung Resort Police have not yet been effective. This implies that the implementation of law enforcement strategies—whether preemptive, preventive, or repressive—continues to face various obstacles, and that outreach and educational activities have not yet optimally reached all segments of society.

Keywords: Territorial principle, Narcotics Crimes and Foreign Citizens.

INTRODUCTION

Drugs are a crime that will destroy the future of the nation because the vast population of this country is becoming victims. The consequences can be physical suffering, mental illness and even death. From healing experience, many experts say that drug abuse cannot be cured normally. At most it can only approach 80% of normal healing. Even that has cost quite a lot of money. Law No. 35 of 2009 concerning Narcotics does clearly regulate penalties or sanctions for foreign citizens who distribute narcotics, but the use of the territorial principle is applied in criminal law. According to this principle, anyone who commits a criminal act within the territory of a country must be subject to the criminal law of that country. Each country is responsible for maintaining the security and stability of its own territory. Therefore, the government has the authority to prosecute anyone who violates the laws of the country. Thus, the state can prosecute individuals who violate the criminal regulations applicable in their

territory. Article 4 of the Criminal Code regulates the territorial principle where the criminal rules in Indonesian criminal legislation apply to every person who commits a criminal act within the territory of Indonesia.

Problem Formulation

By looking at the background above, the problem formulation can be taken, including: first, the mechanism and procedure for resolving narcotics crime cases by applying the territorial principle in handling narcotics crimes committed by foreign citizens in the jurisdiction of the Badung Resort Police, and second, the effectiveness of law enforcement against foreign citizens who commit narcotics crimes in the jurisdiction of the Badung Resort Police.

Purpose of Writing

This study aims to find out about the mechanisms and procedures for resolving narcotics crime cases by applying the territorial principle in handling narcotics crimes committed by foreign nationals in the jurisdiction of the Badung Resort Police, and to find out and analyze in depth the effectiveness of law enforcement against foreign nationals who commit narcotics crimes in the jurisdiction of the Badung Resort Police.

Research Methods

The research method used in this study is a normative research method supported by empirical research that uses various types of primary legal materials in the form of statutory regulations and secondary legal materials in the form of library materials related to the restorative approach as sources of research material. Johnny Ibrahim argues that normative legal research is a form of scientific research aimed at finding the truth based on the logic of legal science reviewed from the normative part, or which is in the form of an effort to discover law that is adapted to a particular case.

RESULTS AND DISCUSSION

Application of the Territorial Principle in Handling Narcotics Crimes Committed by Foreign Nationals in the Jurisdiction of the Badung Police

Article 2 of the Criminal Code embodies the principle of territoriality. Essentially, this principle states that the applicability of Indonesian criminal law is dependent on the territory where the crime was committed. If a crime is committed within Indonesian territory, Indonesian criminal law applies to that crime. The nationality of the perpetrator of the crime is irrelevant; what matters is that the crime was committed within Indonesian territory. According to this principle, the emphasis is placed on the occurrence of the act within the country's territory. Whether the perpetrator is a citizen or a foreigner is irrelevant. Therefore, according to this principle, the place where the crime was committed within the country's territory is the primary

focus. Indonesia's territoriality is paramount; anyone committing a crime within this territory can be prosecuted based on the regulations violated. The nature of the perpetrator is disregarded.

From the explanation above, it is clear that for any crime committed within Indonesian territory, regardless of the person, Indonesian criminal law applies. This is actually quite easy to understand; it is appropriate for Indonesian criminal law to apply to anyone committing a crime within Indonesia. According to A.Z. Abidin and Andi Hamzah argue that the principle of territoriality is the oldest principle. It logically states that a country's legal provisions apply within its own territory. Moeljatno also stated that this first principle is commonly used by most countries, including Indonesia. This is natural because everyone within a country's territory must be subject to that country's laws.

This also embodies Indonesia's legal sovereignty within its own territory. It would be inappropriate for a crime to occur in Indonesia while the criminal law of another country applies. This is certainly inconsistent with Indonesia's sovereignty. Therefore, criminal law applies to anyone who commits a crime within its territory. It is a state's obligation to uphold the law and maintain legal order within its territory.

Thus, it is clear that the territorial principle has a logical basis as a manifestation of state sovereignty to maintain legal order within its territory, and anyone who commits a crime is considered to have violated that legal order. The territoriality principle in the New Criminal Code (Law No. 1 of 2023) also regulates this territoriality principle, which is referred to as the territorial principle (not territoriality as commonly referred to in some current criminal law books).

Drug abuse refers to the use of narcotics without the knowledge or supervision of a doctor. Repeated drug abuse can lead to dependence, whether mild or severe. The severity of this dependence is measured by the extent to which the individual can abstain from the drugs.

Mashuri Sudiro, in his book "Islam Against Drugs," mentions several characteristics of people who are addicted to narcotics, including: a. An overpowering desire to obtain the drug, and the person will resort to any means to obtain it. b. Psychological dependence, whereby if the drug is not available, it causes feelings of restlessness, anxiety, confusion, depression, and other mental health symptoms. c. Physical dependence, whereby if the drug is not available, the addict will experience excruciating pain throughout the body, commonly referred to as withdrawal symptoms.

The territorial principle is regulated in Articles 2 and 3 of the Criminal Code, which explain that Indonesian criminal law applies to anyone, whether an Indonesian citizen or a

foreigner, who commits a crime within Indonesian territory and is subject to criminal sanctions based on applicable Indonesian criminal law.

To see the application of the territorial principle associated with narcotics crime cases committed by foreign citizens in the jurisdiction of the Badung police resort, the author presents 2 narcotics cases involving foreign citizens, namely Belarus citizens and Malaysian citizens. (1) Narcotics Case of Belarus Citizens. A Narcotics Crime has occurred, namely anyone who without rights or against the law possesses, stores, controls or provides class I narcotics, allegedly committed by the suspect named SIARHEI NIKALAYEU, which occurred on the side of Jl. Betaka, Gg. Kamboja, Kel/Desa. Dalung, Kec. North Kuta, Kab. Badung, Prov. Bali, on Tuesday, December 30, 2025, at 13.00 WITA, with confiscated narcotics evidence in the form of 1 package containing white powder narcotics type cocaine and 1 package containing light brown powder narcotics type mephedrone found underground, while 1 package containing white powder narcotics type cocaine (code 2) found in the pants pocket used at that time by SIARHEI NIKALAYEU, as well as 7 (seven) plastic tube containers wrapped in aluminum foil inside which there is a clear plastic clip containing dry leaves suspected of being marijuana narcotics and 4 (four) plastic tube containers wrapped in aluminum foil inside which there is a clear plastic clip containing brown crystals suspected of being MDMA narcotics found in a black sling bag belonging to SIARHEI NIKALAYEU. The suspect admitted to getting the narcotics in the form of cocaine, Mephedrone, dried leaves suspected to be marijuana, and MDMA from a Telegram account named PIRATES BAY, and the plan was for the suspect to consume the evidence. Threatened as referred to in Article 609 paragraph (2) letter a of the Republic of Indonesia Law Number 1 of 2023 concerning the Criminal Code in conjunction with the Republic of Indonesia Law Number 1 of 2026 concerning Criminal Adjustments, and Article 111 paragraph (1) of the Republic of Indonesia Law Number. 35 of 2009 concerning Narcotics in conjunction with the Republic of Indonesia Law Number 1 of 2023 concerning the Criminal Code in conjunction with the Republic of Indonesia Law Number 1 of 2026 concerning Criminal Adjustments or Article 127 paragraph (1) letter a of the Republic of Indonesia Law Number. 35 of 2009 concerning Narcotics in conjunction with the Republic of Indonesia Law Number 1 of 2023 concerning the Criminal Code ...3 concerning the Criminal Code in conjunction with the Republic of Indonesia Law Number 1 of 2026 concerning Criminal Adjustments. Law of the Republic of Indonesia Number 1 of 2026 Concerning Criminal Adjustments. According to I.B Aditya Sadhu Wiguna, S.H, Assistant Investigator: Badung Police, that against the suspect named SIARHEI NIKALAYEU there is sufficient evidence to be suspected of violating: Article 609 paragraph (2) letter a of Law of

the Republic of Indonesia Number 1 of 2023 Concerning the Criminal Code Jo. Law of the Republic of Indonesia Number 1 of 2026 Concerning Criminal Adjustments, and Article 111 paragraph (1) of Law of the Republic of Indonesia Number. 35 of 2009 Concerning Narcotics Jo. Law of the Republic of Indonesia Number 1 of 2023 Concerning the Criminal Code Jo. Law of the Republic of Indonesia Number 1 of 2026 Concerning Criminal Adjustments or Article 127 paragraph (1) letter a of Law of the Republic of Indonesia Number. 35 of 2009 Concerning Narcotics Jo. Law of the Republic of Indonesia Number 1 of 2023 Concerning the Criminal Code Jo. Law of the Republic of Indonesia Number 1 of 2026 Concerning Criminal Adjustments. (2) Narcotics Case of Malaysian Citizen. Based on Police Report Number: LP/A/22/IV/2026/SPKT. SATRESNARKOBA/POLRES BADUNG/POLDA BALI, dated April 1, 2026 regarding Narcotics crimes committed by PUTERA AMIR NORMAN BIN SAMSUDIN, and Investigation Order Number: SP.Sidik/22/IV/RES.4.2./2026/Resnarkoba, dated April 1, 2026, according to AKP I Gusti Made Dharma Sudhira, S.H.,M.H, Head of Narcotics Unit of Badung Police. that a Narcotics Crime has occurred as referred to in Article 111 paragraph (1) of the Republic of Indonesia Law No. 35 of 2009 concerning Narcotics in conjunction with Law Number 1 of 2023 concerning the Criminal Code in conjunction with Law Number 1 of 2026 concerning Criminal Adjustments, Based on the facts and witnesses, it was found that there was indeed a Narcotics Crime committed by PUTERA AMIR NORMAN BIN SAMSUDIN which occurred on Wednesday, April 1, 2026 at 18.00 WITA, on the side of the road at Simpang Tiyng Tutul, Br. Tiyng Tutul, Kel./Desa Pererenan, Kec. Mengwi, Kab. Badung, Prov. Bali, and the suspect PUTERA AMIR NORMAN BIN SAMSUDIN has been suspected of violating Article 111 paragraph (1) of the Republic of Indonesia Law No. 35 of 2009 concerning Narcotics in conjunction with Law Number 1 of 2023 concerning the Criminal Code in conjunction with Law Number 1 of 2026 concerning Criminal Adjustments.

The application of the territorial principle in handling narcotics crimes by foreign nationals within the jurisdiction of the Badung Police Department states that, regarding the jurisdiction of this crime, if Article 5 of the Criminal Code (KUHP) is applied, it can be tried in Indonesia. If the narcotics crime occurs within the territory of the Republic of Indonesia, the suspect can be tried legally in Indonesia. The provisions of Article 4 sub-paragraph 1 of the new Criminal Code, namely Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code, stipulate that anyone who commits a crime within the territory of the Unitary State of the Republic of Indonesia can be tried under Indonesian criminal law if caught by Indonesian law enforcement officers. Therefore, if an Indonesian or foreign citizen is caught in a narcotics crime as stipulated in Article 4 sub-paragraph 1, that person can be tried under

Indonesian criminal law. The application of the Territorial Principle in Indonesia, specifically the Narcotics Law, and the government, encourage bilateral and/or multilateral cooperation regarding narcotics, while the Criminal Code applies only within Indonesia. Law No. 35 of 2009 concerning Narcotics serves as the primary guideline for the Badung Police in conducting investigations, arrests, and inquiries against foreign nationals found carrying, distributing, or producing narcotics in Bali. Although the Narcotics Law does not specifically regulate criminal sanctions for foreign nationals, foreign nationals are still subject to criminal sanctions as stipulated in the Narcotics Law, depending on the elements of the narcotics crime they committed.

This aligns with the obligations of foreign nationals, according to AKP I Gusti Made Dharma Sudhira, S.H., M.H., Head of the Badung Police Narcotics Unit, that all persons, including foreign nationals, within Indonesian territory are required to comply with Indonesian laws and regulations. So that the legal regulations contained in the Republic of Indonesia Law No. 35 of 2009 concerning Narcotics are intended for all people, including foreign citizens who commit narcotics crimes in Indonesia.

Effectiveness of Law Enforcement Against Foreign Citizens Who Commit Narcotics Crimes in the Legal Area of Badung Police

Narcotics are a class of drugs that can be addictive and, if consumed in excessive doses, can lead to death. Side effects of drug use include hallucinations, which provide users with a sense of calm and comfort. These feelings then fuel the desire to continue using drugs. However, the impacts are very serious, not only physically and mentally damaging but also impacting economic and cultural conditions, threatening lives. Although the dangers of narcotics are widely known, many people remain tempted to try them. As a result, the number of drug crimes continues to increase annually.

Drug crimes in Indonesia pose a serious threat to global security, both nationally and internationally. This issue is highly relevant today, given the significant impact of drug abuse and the potential for serious harm to both individuals and society, particularly among young people. Therefore, appropriate and comprehensive handling measures are needed, taking into account the roles and roles of both perpetrators and victims in drug abuse cases.

The Indonesian National Police (Polri) is one of the functions of the state government in maintaining public order and security, law enforcement, protection, and service to the community. Law enforcement against foreign nationals involved in narcotics crimes is part of efforts to protect the community and uphold the rule of law. The Indonesian National Police

(Polri) plays a central role in these efforts, in accordance with the provisions of Law Number 35 of 2009 concerning Narcotics and the Criminal Procedure Code (KUHP).

The level of narcotics distribution and abuse by foreign nationals in Badung Regency is quite high. This is evidenced by research data showing the number of narcotics cases committed by foreign nationals at the Badung Police Resort between 2023 and 2025. The development of narcotics abuse crimes in Badung Regency can be seen based on nationality as follows:

No	Citizens	Number of Narcotics Crime Perpetrators		
		2023	2024	2025
1	Indonesia	92	104	105
2	Foreigners	9	11	14
	Total	101	115	119

Source: Badung Police Narcotics Unit

Based on data obtained from the Badung Regency Narcotics Crime Investigation Unit, from 2023 to 2025, there were 301 Indonesian citizens and 34 foreign nationals. Therefore, it can be concluded that narcotics crimes in Badung Regency are committed by all citizens, both Indonesian and foreign, with the majority of narcotics crimes committed by Indonesian citizens.

To assess the effectiveness of law enforcement by the Badung Regency Police, we can examine the number of narcotics crimes committed by foreign nationals and the number of repressive resolutions by the Badung Police. This can be seen in the table below:

Year	Number of Narcotics Crimes by Foreign Nationals	Non-Repressive (Restorative Justice)	Repressive Efforts (Courts)
2023	9	8	1
2024	11	9	2
2025	14	10	4
Total	34	27	7

Source: Badung Police Narcotics Unit

Data on the number of drug cases and suspects committed by foreign nationals at the Badung Police Department over the past three years shows an increase. However, this increase can be used as an indicator of the effectiveness of law enforcement, as new cases are still being discovered each year, indicating that drug trafficking in Badung Regency continues and has not been fully controlled.

Data showing that new cases continue to emerge each year indicates that law enforcement by the Badung Police Department is ineffective. This indicates that the implementation of preemptive, preventive, and repressive law enforcement strategies still faces

several obstacles. Outreach and education activities have not optimally reached all levels of society.

Likewise, patrols and security measures have not been able to eliminate all vulnerable drug trafficking hotspots in Badung Regency. Furthermore, despite arrests and legal proceedings against perpetrators, drug trafficking networks remain active despite existing conditions. Therefore, a more comprehensive and sustainable approach is needed, accompanied by synergy with various parties, so that law enforcement efforts are truly effective in reducing the number of narcotics abuse and distribution in Badung Regency.

CONCLUSION

The application of the territorial principle in handling narcotics crimes by foreign nationals in the jurisdiction of the Badung Resort Police that Regarding the jurisdiction of this crime, if Article 5 of the Criminal Code is applied, it can be tried in Indonesia. If the narcotics crime occurs in the territory of the Republic of Indonesia, the suspect can be tried legally in Indonesia. In the provisions of Article 4 sub-1 of the Criminal Code which is intended for every person who commits a crime in the territory of the Republic of Indonesia can be tried based on Indonesian criminal law, then if there are Indonesian or foreign citizens caught in narcotics crimes as referred to in Article 4 sub-1, then that person can be tried based on Indonesian criminal law. Based on data on the number of cases and suspects of narcotics crimes committed by foreign nationals in the Badung Resort Police over the past three years, there has been an increase. The increase can be used as an indicator of the effectiveness of law enforcement is still low because new cases are still found every year which shows that the circulation of narcotics in Badung Regency continues and has not been fully controlled

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