

Formulation of Criminal Sanctions Policy in the Form of Fines for Illicit Trafficking of Class I Narcotics from the Perspective of Legal Justice Values (Case Study of Decision Number 427/Pid.Sus/2023/Pn Bkn)

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Abstract. *The research aims to determine the implementation of criminal sanctions in the form of fines for the illicit trafficking of Class I Narcotics in the Bangkinang District Court, and the implementation of criminal sanctions in the form of fines for the illicit trafficking of Class I Narcotics in the Bangkinang District Court is in accordance with the objectives of punishment as a manifestation of the value of legal justice. The method used is sociological juridical, examining the legal reality experienced in the field or based on problems regarding legal matters and existing realities, with the theory of legal effectiveness and legal justice. The results of the research and discussion are that (1) the implementation of criminal sanctions in the form of fines for the illicit trafficking of Class I Narcotics in the Bangkinang District Court has normatively been carried out in accordance with statutory regulations, but has not been effective substantially and culturally according to the theory of legal effectiveness of Lawrence M. Friedman. (2) That the implementation of criminal sanctions in the form of fines for the illicit trafficking of Class I Narcotics in the Bangkinang District Court has fulfilled the aspect of legal certainty and some of the objectives of punishment, but has not fully reflected the value of legal justice in the perspective of Pancasila justice according to Yudi Latif. The justice that is upheld is still formal and has not touched the social-humanitarian dimension as a whole.*

Keywords: *Criminal Fines; Formulation; Narcotics.*

1. Introduction

The state aims to create a prosperous, just, and prosperous Indonesian society based on Pancasila and the 1945 Constitution of the Republic of Indonesia in the context of preventing and eradicating the abuse and illicit trafficking of narcotics and narcotic precursors as an effort to maintain and improve the health of Indonesia's human resources. The rapid abuse and illicit trafficking of narcotics and narcotic precursors is a major challenge for the Indonesian nation, even potentially weakening national resilience in the future. Initially,

narcotics were widely used for medical purposes as drugs that can relieve pain. Over time, regarding the negative impacts and dangers posed by narcotics, even being unsafe for human use if not in accordance with their intended use, their manufacture, use, and distribution must be regulated by law. Therefore, the manufacture, use, and distribution of narcotics that do not comply with applicable regulations are a form of abuse.¹

Etymologically, the term narcotic comes from the Greek word *narke*, meaning to be stupefied, to become numb or unable to feel anything. A narcotic is a drug that dulls the senses, relieves pain, induces sleep, and can produce addiction to varying degrees.² However, from Sylviana's explanation, narcotics are defined as substances (drugs) that can cause unconsciousness or anesthesia because these substances work by influencing the brain's nervous system.³ Meanwhile, the term narcotics has a definition, where one definition reinforces another. In the legal dictionary it is stated that:

Narcotics are substances that numb, numb, or cause unconsciousness. When introduced into the human body, they can suppress brain and nervous system functions. Initially intended for medical purposes, these substances have been misused and abused, leading to the risk of addiction and dependency.⁴ The definition of narcotics in the Big Indonesian Dictionary (KBBI) states that narcotics are drugs to calm the nerves, relieve pain, cause drowsiness, or stimulate (such as opium, marijuana).⁵ Meanwhile, the circulation of Class I narcotics is expanding, with increasingly complex *modus operandi*. Data from law enforcement officials shows that narcotics cases dominate the criminal cases handled by the courts.

Data presented by the Coordinating Minister for Political and Security Affairs (Menko Polkam), Budi Gunawan, indicates that the prevalence of drug abuse in Indonesia will reach 3.3 million people by 2024, dominated by the younger generation. Within two years, the turnover of money laundering (TPPU) funds from drug cases in Indonesia reached 99 trillion rupiah. Indonesia has become a target market and even one of the world's drug producers, making Indonesia a country in emergency regarding drugs.⁶ Therefore, it is necessary to carry out more massive drug eradication efforts through law enforcement and enforcement, including tracing and blocking the flow of funds for dealers and kingpins.

¹Yudhi Widyo Armono, The Use of Narcotics in the Medical World, <https://media.neliti.com/media/publications/170823-ID-kegunaannarkotika-dalam-dunia-medis.pdf>, accessed on 18 February 2025, at 21.03 WIB.

²Soedarto, 1981, Selected Chapters on Criminal Law, Alumni, Bandung, p.56

³Beniharmoni Harefa, Selected Chapters on Legal Protection for Children in access <https://books.google.co.id/books?id=3bBDAAAQBAJ&pg=PA12&lpg=PA12&dq> accessed on 18 February 2025 at 09.27 WIB.

⁴Marbun, 2009, Indonesian Legal Dictionary, Sinar Harapan Library, Jakarta, p.197

⁵ <https://kbbi.kemdikbud.go.id/entri/narkotika> accessed on 13 February 2025 at 21.10 WIB.

⁶ <https://www.ppatk.go.id/news/read/1426/indonesia-darurat-narkoba-perputaran-uang-capai-rp99-triliun.html> accessed on 10 February 2025 at 14.17 WIB.

2. Research Methods

The approach used by sociological juridical research is an approach that examines and discovers legal realities experienced in the field. Sociological juridical legal research primarily examines primary data, as well as data from secondary sources.⁷ By taking this approach, it is intended to obtain a clear picture and understanding of the problems that will be discussed in the research.⁸

3. Results and Discussion

3.1. Analysis of the Implementation of Criminal Sanctions in the Form of Fines for Illicit Trafficking of Class I Narcotics at the Bangkinang District Court

Narcotics crimes are a form of extraordinary crime that threatens the lives of the nation and state. According to Law Number 35 of 2009 concerning Narcotics, Class I narcotics are narcotics with a very high potential for addiction and are prohibited for use in healthcare. Narcotics in this category include heroin, cocaine, marijuana, methamphetamine, morphine, and LSD. Their highly addictive nature leads to widespread abuse and illicit trafficking of these narcotics, both in terms of health, social, and security.

The illicit trafficking of Class I narcotics has its own characteristics, namely, involving organized, transnational criminal networks, and often using complex methods. Illicit trafficking can take the form of production, distribution, storage, or illegal buying and selling transactions conducted without permission from the competent authorities. In practice, perpetrators of this crime are not only individuals but also involve groups or corporations with covert distribution systems. Therefore, narcotics crimes are categorized as crimes that endanger the nation's future generations and threaten national stability. In the context of criminal law policy, regulations regarding narcotics are based on two main objectives: protecting the public from the dangers of narcotics and rehabilitating victims of abuse. As a specific crime, the regulation of narcotics is *lex specialis* to general criminal law. This means that provisions in the Narcotics Law override provisions in the Criminal Code to the extent that they regulate similar matters.

Narcotics are legally stated in Article 1 number 1 of Law Number 35 of 2009 concerning Narcotics that:

"Narcotics are substances or drugs derived from plants or non-plants, whether synthetic or semi-synthetic, which can cause a decrease or change in consciousness, loss of feeling, reduce or eliminate pain, and can cause dependency, which are divided into groups as attached to this law."

⁷Ibid,

⁸Hilman Hadi Kusuma, 2012, *Methods for Creating Working Papers or Legal Theses*, CV. Mandar Maju, Bandung, p. 34

Explanation of the Verdoovende Middelen Ordonantie Staatblad 1972 No. 278 in conjunction with No. 536 as amended by the narcotics law. Narcotics are substances that primarily have the effect of anesthesia, or which can reduce consciousness in addition to causing other physical and mental symptoms if used continuously and illegally with the result, among other things, of dependence on these substances.⁹

According to the Legal Dictionary, drugs are narcotics and dangerous/illegal drugs. They are also known as NAPZA (narcotics, psychotropics, and other addictive substances).¹⁰ On the one hand, narcotics are drugs or substances that are beneficial in the fields of medicine, health care, and scientific development. However, on the other hand, they can lead to dependency if used uncontrolled.¹¹ Initially, narcotic substances were discovered by people whose use was intended for the benefit of mankind, especially in the field of medicine.¹²

Theoretically, it can be said that if narcotics are used proportionally, meaning according to the principle of consensus, both for health and for scientific purposes, then it cannot be qualified as a narcotics crime. However, if narcotics are used for other purposes than that, then the act can be categorized as an act that is clearly a criminal act and/or narcotics abuse based on Law Number 35 of 2009 concerning Narcotics.

Meanwhile, in the context of law enforcement against narcotics crimes in Indonesia, it is a crucial part of the state's efforts to maintain order and protect the nation's future generations from the threat of narcotics crime. Narcotics crimes are classified as extraordinary crimes due to their widespread impact, the involvement of transnational networks, and the threat to the very foundations of social life, the economy, and national security. Therefore, law enforcement should not only focus on punishing perpetrators but also include prevention, eradication, and rehabilitation for drug abusers who become dependent.

The legal basis for enforcing narcotics crimes is regulated in Law Number 35 of 2009 concerning Narcotics, which replaced Law Number 22 of 1997. This law emphasizes three main pillars of policy: prevention and eradication of narcotics abuse, regulation of narcotics use for medical and scientific purposes, and protection for the public from the dangers of narcotics. In the context of law enforcement, law enforcement agencies, namely the Police, the Prosecutor's Office, the National Narcotics Agency (BNN), and the Courts, have a strategic role in implementing legal provisions according to the authority of each institution.

The law enforcement process for narcotics crimes involves several important stages: investigation, inquiry, prosecution, court hearings, and execution of the verdict. During the investigation and inquiry stages, the police and the National Narcotics Agency (BNN) are authorized to take legal action, such as arrests, searches, seizures, and laboratory tests on narcotics evidence. This stage is crucial because the success of uncovering narcotics networks

⁹Moh. Taufik Makarao, 2005, *Narcotics Crimes*, Reality Publisher, Jakarta, p.18

¹⁰Marwan, Jimmy P, 2009, *Legal Dictionary*, 1st edition, Reality Publisher, Surabaya, p.447

¹¹Qomariyatus Sholihah, Effectiveness of the P4GN Program in Preventing Drug Abuse, *Public Health Journal*, Vol. 10, No. 2 2018, accessed <https://journal.unnes.ac.id/>, accessed, August 14, 2025.

¹²Makaro, op. cit., p. 17

depends on the accuracy of the information and evidence obtained. In this regard, synergy between law enforcement officials is a key factor in breaking the chain of narcotics distribution from producers, dealers, and users.¹³

Furthermore, at the prosecution stage, the Prosecutor's Office plays a role in assessing the completeness of the case files resulting from the investigation and submitting them to the court. The Public Prosecutor has the responsibility to prove the elements of narcotics crimes as regulated in the articles of the Narcotics Law, including Articles 111 to 148. In practice, the Prosecutor can also demand additional penalties such as confiscation of evidence, revocation of rights, or large fines against perpetrators of illicit narcotics trafficking.

During the court hearing, the panel of judges examines all evidence presented to determine whether the elements of a crime are met. Court decisions in narcotics cases often impose severe penalties, including the death penalty or life imprisonment for perpetrators who play a major role in the illicit trafficking network. Furthermore, for users or victims of drug abuse, the judge may order medical and social rehabilitation as a form of humane law enforcement, in accordance with Article 54 of the Narcotics Law. This demonstrates the differentiation of treatment between users and dealers within a framework of proportional justice.

The execution of a verdict is the final stage in drug law enforcement. The Prosecutor's Office is responsible for enforcing the sentence, both for corporal punishment (imprisonment, death, or imprisonment in lieu of a fine) and for fines and asset confiscation.

Fines in the Indonesian legal system are a primary form of punishment intended to provide a deterrent effect by imposing a financial burden on perpetrators. Under Articles 148 and 149 of the Narcotics Law, anyone found illicitly trafficking Class I narcotics can be subject to imprisonment and a substantial fine, depending on the type and quantity of evidence traded. This provision is intended to ensure that fines are not merely symbolic but truly impact the economic well-being of perpetrators, who often profit significantly from the narcotics trade.

In practice, courts have imposed fines in various decisions, for example in cases of cross-regional distribution of methamphetamine or marijuana. The fines typically range from hundreds of millions to billions of rupiah. However, their implementation often faces obstacles, particularly when the convict is unable to pay the fine. In such cases, the court imposes a substitute sentence in the form of imprisonment in lieu of the fine, as stipulated in the Criminal Code. However, the effectiveness of this substitute imprisonment is often questioned because it is disproportionate to the economic value of the crime.

The process of enforcing fines is carried out by the Indonesian Prosecutor's Office, which enforces court decisions. Under Article 270 of the Criminal Procedure Code (KUHP), fines are enforced after the verdict has become legally binding. The prosecutor is obligated to collect fines from the convict and to confiscate or auction off the convict's assets if they are not paid. However, in many cases, this enforcement faces obstacles such as the failure to

¹³Dafit Supriyanto Daris Warsito, The Criminalization System for Narcotics Abusers, Jurnal Daulat Hukum, Vol. 1 No. 1 Tahun 2018. Url: <https://jurnal.unissula.ac.id/index.php/RH/article/view/2562>

locate assets, transfer of ownership, or the use of fictitious identities by drug offenders. These conditions often result in suboptimal enforcement of fines, or even complete failure.

3.2. Analysis of the Implementation of Criminal Sanctions in the Form of Fines for Illicit Trafficking of Class I Narcotics by the Bangkinang District Court is in Accordance with the Purpose of Criminalization as a Form of Legal Justice Values

Drug crime is a form of extraordinary crime that has a multidimensional impact on the life of the nation. This crime not only causes harm to individuals who become victims of drug abuse, but also has implications for social, economic, health, and even national security. Illicit drug trafficking, particularly involving Class I narcotics, is a serious crime that threatens the younger generation as the nation's future and has the potential to undermine the social fabric of society. Therefore, the state, through criminal law, has a responsibility to uphold justice and provide a deterrent effect on perpetrators of drug crimes.¹⁴

Until now, no one knows for sure what the meaning of law is, or in other words, there is no legal definition that can be used as a standard in understanding the meaning and concept of law.¹⁵ Notohamidjojo defines law as a whole set of written and unwritten regulations which are usually of a coercive nature, for the behavior of a nation's society (and between nations), which leads to justice, for the sake of realizing a peaceful order, with the aim of humanizing humans in society.¹⁶ According to Soedarto, punishment is suffering that is deliberately imposed on people who commit acts that meet certain conditions.¹⁷

WLG Lemaire's explanation provides an understanding of criminal law as consisting of norms containing obligations and prohibitions which (by the legislators) have been linked to a sanction in the form of punishment, namely a special suffering. Thus it can also be said that criminal law is a system of norms that determine which actions to do or not do something where there is an obligation to do something and under what circumstances can be imposed for these actions.¹⁸

The existence of rules that regulate and compel members of society to obey and comply with them will create balance and peace in their lives. Criminal law experts state that the purpose of criminal law is, first, to deter people from committing crimes (preventive). Second, to educate or reform those who have already shown a propensity for committing crimes so that they become good people (repressive).¹⁹

Presence Criminal law is intended to protect the interests of individuals, human rights, and society. The goal of criminal law in Indonesia must align with the Pancasila philosophy, which

¹⁴ Ade Christian Manapa, Policy Formulation of Criminal Law against Narcotics Traffickers Based on Justice Value. Journal of Legal Sovereignty, Vol. 2 No. 4 of 2019.

¹⁵ Ranidar Darwis, 2003, Legal Education in a Socio-Cultural Context for Fostering Citizens' Legal Awareness, Indonesian Department of Education, UPI, Bandung, p.6

¹⁶ O. Notohamidjojo, 2011, Basic Questions on Legal Philosophy, Griya Media, Salatiga, p.121

¹⁷ Muladi and Barda Nawawi Arief, 2005, Criminal Theories and Policies, Alumni, Bandung, p.2

¹⁸ .AF Lamintang, 1984, Basics of Indonesian Criminal Law, Sinar Baru, Bandung, p.2

¹⁹ Wirjono Prodjodikoro, 2003, Principles of Criminal Law in Indonesia, PT. Refika Aditama, Bandung, p.20

ensures fairness for all citizens. Therefore, criminal law in Indonesia is intended to protect all Indonesians. The goals of criminal law are divided into two:

1. The Purpose of Criminal Law as a Sanction

This objective is conceptual or philosophical in nature and aims to provide a basis for criminal sanctions. The types, forms, and sanctions of criminal offenses also serve as parameters for resolving criminal offenses. This objective is usually not stated in criminal law articles but can be found within all criminal law provisions or in general explanations.

2. The purpose of imposing criminal sanctions on those who violate criminal law is pragmatic, with clear and concrete measures relevant to the problems arising from the violation of criminal law and the person who violated it. This goal is a manifestation of the first goal.²⁰

In the Indonesian criminal law system, the imposition of criminal fines on perpetrators of narcotics crimes is strictly regulated in Law Number 35 of 2009 concerning Narcotics, especially for perpetrators of illicit trafficking of Class I Narcotics. These fines have a dual function, namely as a form of economic punishment that provides a deterrent effect and as a means of restitution for losses incurred as a result of the crime. In line with the development of national criminal law, the New Criminal Code (KUHP), namely Law Number 1 of 2023, places criminal fines as one of the main types of punishment that has an important role in realizing a just and humane criminal system. Criminal fines are no longer seen merely as an alternative to imprisonment, but as an instrument that can encourage perpetrators to be responsible for their actions morally and materially.

Meanwhile, the purpose of criminal punishment in Article 51 paragraph (1) of the New Criminal Code emphasizes that criminal punishment is not merely retributive justice, but also aims to prevent criminal acts, socialize perpetrators through guidance, resolve conflicts, and restore balance and bring a sense of peace in society. Thus, the implementation of criminal fines should not only be seen as a form of formal law enforcement, but must also contain substantive values of benefit and justice. Meanwhile, in the context of the Bangkinang District Court, the application of criminal fines to perpetrators of illicit trafficking of Class I Narcotics is very relevant to study. This is considering that the Bangkinang jurisdiction, which is included in Riau Province, has a relatively high and complex level of narcotics cases. Therefore, the decisions handed down by the Bangkinang District Court can reflect the extent to which the implementation of criminal fines has fulfilled the principle of individualized punishment, namely the imposition of punishment that is adjusted to the level of error, the role of the perpetrator, and the social impact caused.

²⁰ Teguh Prasetyo, 2010, Criminal Law, Rajawali Press, Jakarta, p.7

From the perspective of legal justice, imposing proportionate fines on drug traffickers embodies both corrective and distributive justice. Justice is measured not only by the severity of the punishment imposed, but also by the extent to which the decision restores social balance and provides protection to the community. Therefore, the success of imposing fines is measured not only by legal certainty but also by achieving the goal of just punishment in accordance with the values of Pancasila and the principles of the rule of law.

The implementation of criminal sanctions in the form of fines against perpetrators of illicit trafficking of Class I Narcotics is a concrete form of the application of criminal law that is oriented towards achieving justice, certainty, and legal benefits. In the context of the Bangkinang District Court, the implementation of these sanctions can be analyzed from the extent to which the judge's decision reflects the purpose of punishment as regulated in Article 51 paragraph (1) of the New Criminal Code (Law Number 1 of 2023), namely to prevent criminal acts, socialize perpetrators through guidance, and resolve conflicts and restore balance in society.

However, in judicial practice, the implementation of criminal fines often faces various obstacles, including the limited economic capacity of the defendant to pay the fine, the less than optimal mechanism for executing fines by the prosecutor's office, and the non-uniform application of substitute punishment if the fine is not paid. These problems raise legal and philosophical questions: Is the Implementation of Criminal Fines for Illicit Trafficking of Class I Narcotics by the Bangkinang District Court in Accordance with the Purpose of Punishment as a Form of Legal Justice Values? That in the implementation of criminal fines for the crime of illicit trafficking of Class I Narcotics is an integral part of criminal law enforcement efforts that not only aim to punish the perpetrator, but also protect society from the social impacts caused by narcotics crimes. In practice, criminal fines are often applied together with imprisonment as a form of law enforcement that is oriented towards the deterrent effect and the socio-economic responsibility of the perpetrator.

The implementation of criminal sanctions in the form of fines in cases of illicit trafficking of Class I Narcotics at the Bangkinang District Court reflects the state's real efforts to enforce the law and eradicate criminal acts that threaten the life of the nation. Based on the decisions made by the Bangkinang District Court, it is clear that the panel of judges imposed the main penalty in the form of a heavy prison sentence accompanied by a large fine, as regulated in Article 114 paragraph (2) and Article 112 paragraph (2) of Law Number 35 of 2009 concerning Narcotics. In this context, criminal fines function not only as a complement, but also as an instrument to suppress the economic profits of perpetrators from illegal narcotics activities.

Based on the facts in the trial, the defendant's actions in the incident as regulated and threatened with criminal penalties under Article 112 paragraph (1) of the Republic of Indonesia Law No. 35 of 2009 concerning Narcotics, and Article 114 paragraph (1) of the Republic of Indonesia Law No. 35 of 2009 concerning Narcotics. In the trial examination of this case, facts were discovered which were revealed successively in the form of witness statements, letters, expert statements, and instructions. Therefore, the defendant was sentenced to 7 (seven) years in prison and a fine of Rp. 800,000,000.00 (eight hundred million

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rupiah) with the provision that if the fine is not paid, it will be replaced with a prison sentence of 3 (three) months.

4. Conclusion

That the implementation of criminal sanctions in the form of fines for the illicit trafficking of Class I Narcotics in the Bangkinang District Court has been carried out normatively in accordance with statutory regulations, but has not been substantively and culturally effective according to Lawrence M. Friedman's theory of legal effectiveness. Ideal legal effectiveness requires harmony between a functioning structure, just and adaptive legal substance, and a legal culture that supports the enforcement of humanitarian values and social responsibility. Thus, to achieve complete legal effectiveness, improvements are needed in the fine execution mechanism, a more humanistic reformulation of the substance of criminal law, and the strengthening of the legal culture of society that is oriented towards the values of social justice and humanity. That the implementation of criminal sanctions in the form of fines for the illicit trafficking of Class I Narcotics in the Bangkinang District Court has fulfilled the aspect of legal certainty and some of the objectives of punishment, but has not fully reflected the value of legal justice in the perspective of Pancasila justice according to Yudi Latif. The justice that is enforced is still formal and has not touched the socio-humanitarian dimension as a whole. Therefore, in the future, a more substantive just law enforcement paradigm is needed, in line with the legal ideals of Pancasila which place law as a means of humanity and shared prosperity.

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