

Legal Analysis of Criminal Sanctions in the Form of Fines as an Effort to Enforce the Law on Class I Narcotics Crimes (Study of Decision Number 335/Pid.Sus/2024/PN Mgl)

Alviana Putri Solichah¹⁾ & Andri Winjaya Laksana²⁾

¹⁾ Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia,
E-mail: alvianaputrisolichah.std@unissula.ac.id

²⁾ Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia,
E-mail: andri.w@unissula.ac.id

Abstract. *The study aims to determine the implementation of criminal sanctions in the form of fines as an effort to enforce the law on Class I Narcotics crimes in Decision Number 335/Pid.Sus/2024/PN Mgl. law should be applied in the Criminal Code, the new Criminal Procedure Code and its Adjustment Law in Decision Number 335/Pid.Sus/2024/PN Mgl. The sociological legal approach method is a method of approaching the study to find legal realities experienced in the field or an approach that is based on problems concerning legal matters and existing realities. The results of the research and discussion are that (1) The imposition of fines in Decision Number 335/Pid.Sus/2024/PN Mgl is normatively in accordance with the Narcotics Law, but its effectiveness is not optimal because light substitute sentences weaken the coercive power and deterrent effect. Therefore, it is necessary to strengthen the mechanism for implementing and executing fines so that the preventive, repressive, and community protection functions can be achieved effectively. (2) The application of fines and substitute sentences in Decision Number 335/Pid.Sus/2024/PN Mgl is still formalistic, does not take into account the economic capabilities of the convict, and the preventive and rehabilitative functions are not optimal. It is necessary to strengthen the implementation and application of consistent sentencing guidelines to realize justice, legal certainty, and benefits. (3) The application of fines and substitute sentences in Decision Number 335/Pid.Sus/2024/PN Mgl is not fully in accordance with the sentencing guidelines in the Criminal Code and Criminal Procedure Code, is still formalistic, and does not take into account the economic capabilities of the convict. Preventive and rehabilitative functions are not yet optimal, so it is necessary to strengthen the implementation and application of consistent sentencing guidelines.*

Keywords: *Class I Narcotics; Criminal Sanctions; Fines.*

1. Introduction

Everyone has the right to live in physical and spiritual prosperity, to have a place to live and have a good and healthy living environment, and to receive health services as stated in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Furthermore, Article 28I paragraph (4) of the UUDNRI explains that "Protection, advancement, enforcement and fulfillment of human rights are the responsibility of the state, especially the government." So it can be understood that the government has a big responsibility in guarding and protecting every citizen, especially in overcoming narcotics crimes in Indonesia.

The ongoing phenomenon of drug abuse poses a challenge to the Indonesian nation, requiring immediate and serious action from all levels of society. The government needs to take decisive and concrete steps to address these issues, as continued drug trafficking will undoubtedly undermine the nation's morals. Drug trafficking is a transnational crime, typically committed through various means, utilizing sophisticated technology, and supported by extensive networks of organizations across nearly every Asian country, particularly Indonesia.¹

Drug abuse is very high in Indonesia because law enforcement is weak and the public has a belief that law enforcement can be easily deceived by irresponsible individuals.²The problem of drug abuse has become extremely complex, both in terms of its causes and its treatment. Furthermore, the increasing circulation of narcotics is exacerbated by the lack of firm enforcement of laws regarding sanctions for drug users, which are essential for providing a deterrent effect on drug users and raising awareness and training for drug users.³

According to Soedjono Dirdjosworo said that the definition of narcotics that can be understood by the public:

A substance that can produce certain effects on those who use it by inserting it into the body. These effects can include anesthesia, pain relief, arousal, and hallucinations or the emergence of delusions. These properties, known and discovered in the medical world, are intended to be utilized for medical purposes and for human benefit in the fields of surgery, pain relief, and other areas.⁴

2. Research Methods

The sociological legal approach method is a method of approaching the study to find legal realities experienced in the field or an approach that is based on problems concerning legal matters and existing realities.

Sociological juridical legal research examines primary data as well as data sourced from secondary data.⁵Thus, this research is more suitable to use sociological

juridical, because the formulation of the problem data obtained is more accurate, by using this approach it is intended to obtain a clear picture and understanding of the problems that will be discussed in the research.⁶

3. Results and Discussion

3.1. Implementation of criminal sanctions in the form of fines as an effort to enforce the law on Class I Narcotics crimes in accordance with legal justice in Decision Number 335/Pid.Sus/2024/PN Mgl.

Criminal law is essentially a means for the state to maintain social order by establishing coercive norms accompanied by the threat of sanctions. Criminal sanctions serve not only as a means of retribution for unlawful acts but also as an instrument of social control aimed at preventing future criminal acts. In this context, selecting the appropriate type of punishment is crucial to achieving the objectives of punishment effectively and proportionally.⁷ One form of criminal sanction that differs from deprivation of liberty is a fine. A fine is a form of punishment that emphasizes the financial burden imposed as a consequence of a criminal act. The existence of fines is relevant in the development of modern criminal law, which is moving towards reducing the use of imprisonment, particularly for perpetrators of crimes that do not have widespread social impacts or are not violent.⁸

In law enforcement practice, fines are often positioned as an alternative or cumulative punishment to imprisonment. However, the effectiveness of implementing fines still faces various obstacles, both normative, structural, and cultural. Therefore, a comprehensive analysis is needed regarding how fines are implemented as part of law enforcement efforts oriented towards justice, certainty, and expediency.⁹ In law enforcement practice, fines are often positioned as an alternative or cumulative punishment to imprisonment. However, the effectiveness of implementing fines still faces various obstacles, both normative, structural, and cultural. Therefore, a comprehensive analysis is needed regarding

1Julianan Lisa FR and Nengah Sutrisna W, 2013, *Drugs, Psychotropics, and Mental Disorders: A Review of Health and Law*, Nuha Medika, Yogyakarta, p. 2

2Ratih Frayunita Sari, *Legal Perspectives on Drug Problems*, <https://kepri.bnn.go.id/perspektif-hukum-dalam-permasalahan-narkoba> accessed January 27, 2025, 15.13 WIB.

3National Narcotics Agency, *Drug Abuse in Society*, Gramedia, Jakarta, 2010, p. 1

4Soedjono Dirdjosisworo, 1987, *Indonesian Narcotics Law*, Alumni, Bandung, p. 7

5Ibid,

6Hilman Hadi Kusuma, 2012, *Methods for Making Legal Working Papers or Theses*, CV. Mandar Maju, Bandung, p. 34

7Moeljatno, 2008, *Principles of Criminal Law*, Rineka Cipta, Jakarta, p. 16

8Barda Nawawi Arief, 2010, *Anthology of Criminal Law Policy*, Kencana, Jakarta, p. 45

9Andi Hamzah, 1993, *Criminal and Penal System in Indonesia*, Pradnya Paramita, Jakarta, p. 112

how fines are implemented as part of law enforcement efforts oriented towards justice, certainty, and expediency.

A fine is conceptually the principal penalty imposed in the form of an obligation to pay a sum of money to the state as a consequence of a crime. In the Indonesian criminal law system, fines have been recognized since the enactment of the Criminal Code (KUHP) and have been retained in national criminal law reforms.¹⁰Theoretically, criminal fines have several functions, including:

1. **Repressive function**, namely as a form of state reaction to violations of the law.
2. **Preventive function**, both generally and specifically, through the deterrent effect caused by the financial burden.
3. **Limited restorative function**, because it does not cause serious social impacts such as imprisonment.¹¹

Compared to imprisonment, fines are considered more economical for the state because they eliminate correctional costs. Furthermore, fines can help avoid the negative impacts of imprisonment, such as social stigmatization and the possibility of recidivism due to interactions with other inmates.¹²However, fines have weaknesses, particularly related to the inability of the perpetrator to pay. In practice, this inability often results in the imposition of a substitute sentence in the form of imprisonment, thus failing to achieve the initial goal of reducing the use of imprisonment.

Class I narcotics crimes are a serious concern in Indonesian criminal law policy. The characteristics of Class I narcotics, which have a very high potential for addiction and are not intended for healthcare purposes, place them under the strictest regulatory framework within the legal system. Therefore, the formulation of criminal sanctions for violations involving Class I narcotics is generally cumulative, combining imprisonment with substantial fines.¹³

The inclusion of fines in Class I narcotics offenses serves a strategic purpose: not only to provide a deterrent effect on perpetrators, but also to target the economic aspects of drug crimes, which are generally oriented toward financial gain. Thus, fines serve as a means to weaken the perpetrators' economic motives and break

10Ibid,

11Muladi and Barda Nawawi Arief, 2010, *Criminal Theories and Policies*, Alumni, Bandung, p. 92

12M. Sholehuddin, 2003, *Sanction System in Criminal Law*, RajaGrafindo Persada, Jakarta, p. 78

13Siswanto Sunarso, 2012, *Legal Politics in the Narcotics Law*, Rineka Cipta, Jakarta, p. 84

the chain of illicit drug trafficking.¹⁴ However, in practice, the application of fines in narcotics cases often creates problems. The relatively high fines, which in many cases reach hundreds of millions to billions of rupiah, are not always commensurate with the perpetrator's economic capacity, especially for perpetrators who act as users or couriers with marginal positions in drug trafficking networks. As a result, these fines are almost always replaced with alternative prison sentences, rendering the fine's function as an instrument of economic deterrence ineffective.¹⁵

This situation demonstrates a gap between the normative objectives of the law's creators and the reality of its implementation in the field. Normatively, fines are intended as a means of creating a deterrent effect and as part of a penal policy that emphasizes the confiscation of criminal proceeds. However, in practice, fines often serve only as a formal complement to a verdict without an optimal enforcement mechanism.¹⁶

From a penal theory perspective, the imposition of fines for Class I narcotics offenses should not only be understood as a form of retribution, but also as a preventive and utilitarian instrument aimed at protecting society from the impacts of illicit drug trafficking. Therefore, the effectiveness of fines depends heavily on the accuracy of the fine imposed, the state's ability to enforce payment, and the appropriateness of the perpetrator's role in the crime and the type of sanction imposed.¹⁷

However, legal justice is not solely measured by the conformity of the verdict to the provisions of the law, but also by the proportionality of the sanction to the perpetrator's specific circumstances. Corrective justice theory emphasizes that punishment must take into account the perpetrator's level of culpability and capacity to take responsibility, so that the sanctions imposed do not create excessive inequality. In narcotics cases, perpetrators who act as users or couriers with subordinate positions in illicit trafficking networks have a different level of culpability than perpetrators who act as controllers or dealers.¹⁸

Therefore, the imposition of large fines without considering the role and economic capabilities of the perpetrator has the potential to give rise to substantive injustice. This situation demonstrates that, in fact, fines do not function as an instrument for confiscating the proceeds of crime, but rather merely serve as a normative formality in sentencing. If fines cannot be enforced, the purpose of

14Barda Nawawi Arief, 2011, *Criminal Law Policy in Combating Narcotics*, Kencana, Jakarta, p. 59

15M. Sholehuddin, 2003, *Sanction System in Criminal Law*, RajaGrafindo Persada, Jakarta, p. 112

16Muladi, *Op.Cit.*, p. 134

17Andi Hamzah, 2012, *Principles of Criminal Law in Indonesia and its Development*, Sofmedia, Jakarta, p. 146

18Barda Nawawi Arief, 2010, *Anthology of Criminal Law Policy*, Kencana, Jakarta, p. 71

criminal punishment, which is to provide a preventive and repressive effect through economic sanctions, will not be achieved.¹⁹

From a distributive justice perspective, sentencing must balance the interests of the state, society, and the perpetrator. The state has an interest in firmly combating drug crimes, society needs protection from the negative impacts of drugs, and perpetrators have the right to receive fair treatment commensurate with their level of culpability. If fines are imposed without considering the perpetrator's economic capacity, the sanction will have a different impact on each individual, leading to disparities in sentencing.²⁰

Furthermore, modern criminal theory emphasizes that criminal sanctions must be individualized, that is, tailored to the characteristics of the perpetrator and the specific circumstances of the crime. Therefore, when imposing fines, judges should not only be guided by the minimum and maximum limits stipulated by law, but also consider the ability to pay, the perpetrator's role in the crime, and the intended purpose of the punishment.²¹

If a criminal decision imposes a cumulative fine and imprisonment without adequate consideration of the perpetrator's economic capacity, it can be said that the imposition of such sanctions does not fully reflect substantive justice. This is because the sanctions imposed do not provide any tangible benefit as an instrument of economic deterrence against the perpetrator, but rather only increase the criminal burden, ultimately converting it into a substitute prison sentence.

Assessing a decision's compliance with the principles of legal justice is not solely based on its compliance with the normative provisions of the law, but must also consider aspects of proportionality, individualization of the sentence, and the purpose of the sentence. In the case of Class I narcotics crimes, the provision of a cumulative fine and imprisonment is legally in accordance with the formulation of sanctions in the law. Therefore, from a formal justice perspective, the imposition of a fine in the decision can be said to have met the principle of legality because it was imposed based on applicable legal provisions.²²

19M. Sholehuddin, 2003, *Sanction System in Criminal Law*, RajaGrafindo Persada, Jakarta, p. 115

20Muladi and Barda Nawawi Arief, 2010, *Criminal Theories and Policies*, Alumni, Bandung, p. 101

21Barda Nawawi Arief, 2010, *Anthology of Criminal Law Policy*, Kencana, Jakarta, p. 67

22Moeljatno, 2008, *Principles of Criminal Law*, Rineka Cipta, Jakarta, p. 25

3.2. Criminal sanctions as a law enforcement effort should be implemented in the Criminal Code, the new Criminal Procedure Code and its Adjustment Law.inDecision Number335/Pid.Sus/2024/PN Mgl.

The application of criminal sanctions as an instrument of law enforcement is essentially understood not only as a form of state reaction to violations of norms, but also as a means to realize order, certainty, and legal justice in society. In the context of the Indonesian criminal justice system, the implementation of the new Criminal Code (KUHP), the updated Criminal Procedure Code (KUHP), and the legislation that adapts them requires harmonization between norms, procedures, and the objectives of punishment. This is important so that the application of criminal sanctions in judicial practice is not solely repressive, but also proportional, rational, and oriented towards criminal policy that emphasizes the balance between community protection and the development of criminal offenders.²³

In line with the development of the modern penal paradigm, criminal sanctions should be positioned as part of an integrated system of substantive law, formal law, and criminal enforcement law. Therefore, in Decision Number 335/Pid.Sus/2024/PN Mgl, the application of criminal sanctions needs to be analyzed within the framework of the reform of the Criminal Code and the Criminal Procedure Code, along with their corresponding laws, so that consistency is reflected between the objectives of punishment, the principle of legality, and the effectiveness of law enforcement. This approach aligns with the view that penal policies must be formulated systematically and oriented toward the goal of just legal protection, not simply inflicting suffering on perpetrators..²⁴

Normatively, the application of criminal sanctions in a court decision must be based on the consistency between substantive criminal law, criminal procedural law, and criminal enforcement law as a unified system. From the perspective of national criminal law reform, the enactment of the new Criminal Code confirms a shift in the orientation of punishment from a purely repressive model to a more proportional, individualized, and goal-oriented model. This is reflected in the regulations regarding types of punishment, sentencing guidelines, and the possibility of implementing alternative punishments that emphasize a balance between the interests of protecting society and developing perpetrators.²⁵

In relation to Decision Number 335/Pid.Sus/2024/PN Mgl, the application of criminal sanctions, especially fines in narcotics cases, needs to be analyzed based

23Barda Nawawi Arief, 2011, *Anthology of Criminal Law Policy: Developments in the Drafting of the New Criminal Code*, Kencana, Jakarta, p. 47

24Muladi and Barda Nawawi Arief, 2010, *Criminal Theories and Policies*, Alumni, Bandung, p. 92

25Barda Nawawi Arief, 2015, *Development of the Criminal Justice System in Indonesia*, Pustaka Magister, Semarang, p. 35

on the expanded legality principle in the new Criminal Code, which not only emphasizes the existence of written rules, but also on the clarity of the formulation of the offense, the proportionality of sanctions, and certainty regarding the implementation of substitute punishment if the fine is not paid. The new Criminal Code regulates a more structured system of categorizing fines, so that judges in imposing sentences should consider the level of culpability, the economic capacity of the defendant, and the objectives of the punishment to be achieved.²⁶ Thus, the imposition of fines is no longer positioned as an additional formal punishment, but rather as a punishment instrument that has rationality and effectiveness within the framework of criminal law policy.

From a procedural law perspective, the revised Criminal Procedure Code (KUHP) requires the guarantee of due process of law at every stage of the case examination, including the presentation of evidence, sentencing, and the execution of the sentence. Judges are obliged to provide comprehensive legal considerations regarding the rationale for selecting the type of sentence, the basis for imposing the fine, and the mechanism for implementing substitute sentences. The absence of adequate considerations has the potential to create disparities in sentencing and undermine the legitimacy of decisions. Therefore, in a normative context, decisions imposing fines must contain arguments that explicitly reflect the application of sentencing guidelines, including an analysis of aggravating and mitigating circumstances.²⁷

Furthermore, the existence of laws adapting to the new Criminal Code serves to harmonize various sectoral laws, including the Narcotics Law. This alignment is crucial to ensure that the sanction system in specific laws remains aligned with the general principles of criminal punishment in the new Criminal Code, particularly regarding the structure of criminal penalties, the cumulative or alternative sentencing system, and the mechanism for imposing fines. Without such harmonization, there is the potential for conflict between the criminal provisions in specific laws and the general principles of criminal punishment in the Criminal Code, which could ultimately lead to legal uncertainty.²⁸

From a criminal law policy perspective, the application of criminal sanctions in the *a quo* decision should reflect an integrated approach between the objectives of punishment, the effectiveness of law enforcement, and public protection from narcotics crimes. Fines, as part of the modern penal system, serve a strategic function, particularly in suppressing the economic benefits of crime and reducing reliance on deprivation of liberty. However, their effectiveness depends heavily on

26Mahrus Ali, 2012, *Basics of Criminal Law*, Sinar Grafika, Jakarta, p. 214

27Eddy OS Hiariej, 2016, *Principles of Criminal Law*, Cahaya Atma Pustaka, Yogyakarta, p. 427

28Muladi, 2013, *Selected Chapters on the Criminal Justice System*, Diponegoro University Publishing Agency, Semarang, p. 61

the clarity of regulations regarding the execution of fines, the convict's economic capacity, and the judge's consistency in applying sentencing guidelines.²⁹

Within the framework of the new Criminal Code, fines are no longer positioned as a formal supplementary punishment, but rather as a principal type of punishment with a clear categorization structure, sentencing guidelines, and implementation mechanisms. Therefore, the appropriateness of a decision imposing a fine and a substitute sentence for unpaid fines must be tested based on the principles of proportionality, individualization of punishment, and rationality of punishment as stipulated in the sentencing guidelines of the new Criminal Code.³⁰

First, from the aspect of proportionality, the new Criminal Code emphasizes that the amount of the fine must be adjusted to the level of culpability of the perpetrator, the impact of the act, and the economic condition of the convict. Therefore, a decision imposing a fine should include explicit consideration of the ability to pay, so that the fine does not automatically become a deprivation of liberty through a substitute punishment mechanism. If this consideration is not adequately outlined, then the decision does not fully reflect the principle of individualization of punishment that characterizes the revised Criminal Code.³¹

Second, regarding the substitution of fines, the new Criminal Code stipulates that substitution must be placed as an ultimum remedium and not as an automatic consequence. Substitution can only be implemented if the convict is proven unable to pay the fine, and its implementation must consider other alternatives, such as installment payments or the implementation of a supervised sentence. If the verdict directly determines a substitute prison sentence without providing for such a mechanism, it indicates the continued strong orientation of retributive punishment and is not in line with the modern sentencing paradigm in the new Criminal Code.³²

Third, in the sentencing guidelines of the new Criminal Code, judges are required to state the reasons for selecting the type of punishment, including why a fine was chosen as part of the cumulative or alternative sentencing system for narcotics crimes. Decisions that only include fines without analyzing the purpose of the punishment—for example, to seize the economic benefits of the crime or as a deterrent—demonstrate the suboptimal application of the sentencing guidelines.

29Barda Nawawi Arief, 2011, *Anthology of Criminal Law Policy*, Kencana, Jakarta, p. 81

30Barda Nawawi Arief, 2015, *Development of the Criminal Justice System in Indonesia*, Pustaka Magister, Semarang, p. 44

31Eddy OS Hiariej, 2016, *Principles of Criminal Law*, Cahaya Atma Pustaka, Yogyakarta, p.459.

32Mahrus Ali, 2012, *Basics of Criminal Law*, Sinar Grafika, Jakarta, p. 226

However, such considerations are crucial to ensuring that fines serve a strategic role in drug crime prevention policies.³³

Fourth, from the perspective of effective criminal enforcement, the new Criminal Code requires that fines be executed realistically and not lead to overcrowding in correctional institutions due to the high rate of conversion of fines to substitute imprisonment. Therefore, the suitability of the verdict with sentencing guidelines must also be assessed in terms of the rationality of the length of the substitute sentence imposed. Determining a substitute sentence that is disproportionate to the amount of the fine has the potential to create an imbalance between the purpose of punishment and the impact of its implementation in the correctional system.³⁴

Based on this analysis, it can be argued that the suitability of the verdict in imposing fines and substitute sentences with the sentencing guidelines of the new Criminal Code depends heavily on the extent to which the judge applies the principles of proportionality, individualization of punishment, and the orientation of the objectives of sentencing. Decisions that still place substitute sentences as an automatic consequence of the inability to pay a fine indicate a discrepancy with the spirit of the Criminal Code reform. Conversely, decisions that include considerations regarding the convict's economic capacity, alternatives to implementing a fine, and the rationale for the length of a substitute sentence can be said to be in line with the modern sentencing guidelines adopted by the new Criminal Code.

4. Conclusion

The imposition of fines in Decision Number 335/Pid.Sus/2024/PN Mgl is normatively in accordance with the provisions of the Narcotics Law and reflects a criminal policy aimed at suppressing the economic benefits of Class I narcotics crimes. However, from the aspect of its implementation, the effectiveness of fines as a law enforcement effort is still not optimal, especially due to the existence of relatively light substitute criminal provisions that have the potential to reduce the coercive power and the expected deterrent effect. From the perspective of Moeljatno's theory of punishment and criminal law policy, fines should not only fulfill the legal aspects, but also be able to provide a real preventive, repressive, and community protection impact. Therefore, strengthening the implementation stage and the mechanism for executing fines is needed so that the goal of overcoming narcotics crimes through penal instruments can be achieved effectively and proportionally.

33Muladi and Barda Nawawi Arief, 2010, *Criminal Theories and Policies*, Alumni, Bandung, p.105.

34Barda Nawawi Arief, 2011, *Anthology of Criminal Law Policy*, Kencana, Jakarta, p. 87

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