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Analysis of Criminal Responsibility of Narcotics Defendants After the Effectiveness of the New Criminal Code (Case Study of Mataram District Court)

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Abstract. *Drug abuse in Indonesia presents a serious legal problem because it is not only related to illicit trafficking, but also affects users, addicts, victims of abuse, couriers, and other parties with varying degrees of involvement. Following the enactment of the New Criminal Code, the criminal liability of drug defendants needs to be assessed more carefully due to changes in criminal provisions, the application of rules that are more favorable to defendants, and the need to differentiate between punishment and rehabilitation based on trial facts. This study aims to analyze the criminal liability of drug defendants after the enactment of the New Criminal Code, the weaknesses in its implementation, and the ideal model for criminal liability for drug defendants in the future. This thesis research uses a normative legal research method with analytical descriptive specifications, using secondary data through literature studies covering primary, secondary, and tertiary legal materials, then analyzed qualitatively to answer the research questions. The theories used include the theory of criminal responsibility, the theory of legal systems, and the theory of justice. Research results: 1) The criminal liability of narcotics defendants after the New Criminal Code is based on evidence of actions, mistakes, the ability to be responsible, and the application of new rules that are more beneficial to the defendant, as seen in the Mataram District Court case through the use of Article 609 Paragraph (1) letter a of the New Criminal Code. 2) The weakness in the implementation of the criminal liability of narcotics defendants after the New Criminal Code lies in the unclear substance guidelines, the lack of uniform understanding among officials, and the continued strong perspective on severe punishment that limits the space for rehabilitation. 3) The ideal model for the criminal liability of narcotics defendants is a model that differentiates between perpetrators of illicit trafficking, users, addicts, and victims of abuse based on trial facts, with measured punishment for perpetrators of trafficking and rehabilitation for addicts and victims of abuse in accordance with the principles of legality, the principle of fault, and the principle of justice.*

Keywords: *Criminal; Narcotics; Responsibility.*

1. Introduction

Based on Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD 1945) which states "The Republic of Indonesia is a state of law", all aspects of social, national and state life are carried out according to applicable legal provisions.[1]Various daily activities are also subject to regulations, Article 27 Paragraph (1) of the 1945 Constitution also states that "All citizens have equal standing before the law and government and are obliged to uphold the law and government without exception," which means that everyone in the territory of Indonesia has the same standing before the law. Any party who violates legal provisions will be subject to sanctions in accordance with applicable regulations.[2]

The current globalization has brought many significant changes to various aspects of human life. The benefits of globalization are significant and assist human activities in many ways. However, globalization also often has significant negative impacts. Social, cultural, religious, political, economic, educational, and scientific and technological fields can be significantly impacted. These negative impacts require a legal basis to address them. Criminal law is one component of this legal basis.[3]

One form of crime that frequently occurs in society today is narcotics crime. Narcotics are substances or drugs derived from plants or non-plants, whether synthetic or semisynthetic, that can reduce or alter consciousness, eliminate sensation, reduce or eliminate pain, and have the potential to cause dependence. While psychotropic drugs are drugs or substances that are useful in the fields of medicine, health services, and scientific development, they can also cause significant harm if used without strict and careful control and supervision.[4]

Drug abuse in Indonesia is often seen as a serious crime with wide-ranging impacts (extraordinary crime).[5]Drug trafficking is also transnational, involving illicit trade that transcends national borders. Illegal drug abuse has increased rapidly and spread to nearly every country.

Data from the National Narcotics Agency (BNN) shows a trend of increasing drug abuse rates in Indonesia between 2023 and 2025. A prevalence survey conducted by BRIN recorded that in 2023 the prevalence rate of drug abuse was 1.73%, or

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[1]M. Tasbir Rais, The Indonesian Legal State: Ideas and Its Implementation, Unsulbar Law Journal, Vol. 5, No. 2, 2022, pp. 11-31.
[2]Diajeng Afra Fathina Shodiq et al., Violations of Indonesian Airspace Sovereignty According to International Law, NEM Publisher, Pekalongan, 2023, p. 23
[3]Budi Winarno, Globalization: Opportunity or Threat for Indonesia, Erlangga, Jakarta, 2008, p. 2
[4]Ahmad Darwis et. al., Drugs, Dangers and How to Anticipate Them, Amaliah Journal of Community Education, Vol. 1, No. 1, 2018, pp. 36-45.
[5]Defry Dwi Irmawan and Anis Mashdurohatun, Disparities in Criminal Cases Against Judge's Decision in Crime of Narcotics Abuse Viewed from The Purpose of Criminal Law, Jurnal Daulat Hukum, Vol. 1, No. 4, 2018, p. 973-980.

approximately 3.33 million people in the 15-64 age group. Measurement results for the 2023-2025 period show that this figure has increased to 2.11%, equivalent to approximately 4.15 million people, thus indicating an increase in the number of abusers in the past two years.[6]

At the regional level, the NTB BNNP in its end-2025 release stated that the prevalence of drug abuse in NTB reached 1.73% or around 64,623 NTB residents, most of whom were in the productive age group of 15 to 64 years. In the Mataram City area, the Mataram Police recorded that from January 1 to December 28, 2025, there were 105 narcotics cases with 134 suspects, evidence in the form of 693.69 grams of crystal methamphetamine, 1,340.92 grams of marijuana, and 36 ecstasy pills, and 90 cases or 85.71% had been declared complete and proceeded to trial. This data shows that the Mataram District Court is one of the important places to see how the criminal responsibility of narcotics defendants is assessed by judges, especially when cases involve evidence in certain quantities, consumption equipment, laboratory test results, and facts regarding the purpose of use or possession of narcotics.[7]

The current problem of criminal liability for drug defendants lies in determining the boundaries between defendants as users, addicts, couriers, dealers, or parties connected to illicit trafficking networks. Law Number 35 of 2009 concerning Narcotics includes treatment and rehabilitation, prevention and eradication, investigation, prosecution, court hearings, and criminal provisions, so that the handling of narcotics cases is two-way: punishment and rehabilitation. At the same time, the New Criminal Code through Law Number 1 of 2023 becomes a new basis for assessing criminal cases, including when there are changes in the rules after the act is committed. This situation requires judges in narcotics cases to assess the applicable rules, the rules that are more favorable to the defendant, the elements of culpability, the purpose of narcotics possession, and the appropriateness of punishment or rehabilitation based on the facts of the trial.[8]

In Decision Number xx/Pid.Sus/2025/PN Mtr, the case began with information from the public which was followed up by the Mataram City Police Narcotics Unit with investigation and surveillance, then the defendant YS was secured and a search was conducted in a boarding room in the West Lombok area on September 24, 2025 at around 01.00 WITA. From the series of actions, evidence related to

[6]BNN Public Relations, From Data to Action: BNN Strengthens Comprehensive Research-Based Drug Prevention Strategyhttps://bnn.go.id/dari-data-ke-aksi-bnn-perkuat-strategi-penanggulangan-narkoba-berbasis-riset-komprehensif/, accessed on February 10, 2026

[7]BNNP NTB, Released at the End of 2025, BNNP NTB Saved 28 Thousand Lives from the Threat of Narcotics,https://ntb.bnn.go.id/rilis-akhir-tahun-2025-bnnp-ntb-selamatkan-428-ribu-jiwa-dari-ancaman-narkotika/, accessed on May 5, 2026

[8]The wisdom of Putri Amalia and Naida Andhita Pasa, Problems of Law Enforcement Against Narcotics Crimes in Indonesia, Ma'mal: Journal of Sharia and Law Laboratory, Vol. 5, No. 3, 2024, pp. 279-296.

crystal methamphetamine was found, including plastic clips containing clear crystals (gross 0.73 grams with a net of 0.55 grams), glass pipes, and tools used for consumption, and laboratory test results confirmed that the sample contained methamphetamine which is classified as a Class I Narcotics. The court considered that the elements of "every person" and the elements of "without rights or against the law possessing/storing/controlling/providing Class I Narcotics not plants" were fulfilled. The Defendant's actions as regulated and threatened with criminal penalties in Article 112 Paragraph (1) of the Narcotics Law, namely "Any person who without the right or against the law possesses, stores, controls or provides Class I Narcotics which are not plants, shall be punished with imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years and a fine of at least IDR 800,000,000.00 (eight hundred million rupiah) and a maximum of IDR 8,000,000,000.00 (eight billion rupiah)".

Taking into account the enactment of Law Number 1 of 2023 concerning the New Criminal Code since January 2, 2026, the Panel of Judges applied Article 3 paragraph (1) of the New Criminal Code which stipulates that if there is a change in legislation after the act is committed, the new rules will apply, unless the old rules are more advantageous for the perpetrator. In this case, the reference to Article 112 paragraph (1) of the Narcotics Law has been replaced with Article 609 paragraph (1) of the New Criminal Code, so the judge immediately chose the charge of Article 609 paragraph (1) letter a of the New Criminal Code. The defendant was found guilty and sentenced to 4 years imprisonment and a fine of IDR 300,000,000.00 with a substitute sentence of 100 days if the fine is not paid. The decision also stipulates that the period of arrest and detention be reduced, the defendant remains in detention, certain evidence be destroyed, while cash and cell phones are confiscated for the state. However, in this case there was no integrated assessment to determine the defendant's position more precisely, whether as a user, addict, victim of abuse, courier, intermediary, or part of the illegal narcotics trafficking.

2. Research Methods

The type of research used by the researcher in this study is Normative Legal Research. The research specification uses Descriptive Analysis. The data used for this study is Secondary Data obtained from library research, which consists of primary legal materials, secondary legal materials and tertiary legal materials, with the data collection method in this study carried out through Library Research. The data analysis method used is Qualitative Analysis, namely the way of processing data by organizing and interpreting research materials (documents, decisions, regulations, expert opinions, and literature) so that their meaning is visible and conclusions can be drawn that can be accounted for.

3. Results and Discussion

3.1. Criminal Liability for Narcotics Defendants Following the Enactment of the New Criminal Code

Criminal liability is a crucial aspect of criminal law because it serves as the basis for determining whether a person committing a crime can be punished. Discussions on criminal liability go beyond simply questioning whether the defendant's actions meet the provisions of the article, but also assess whether the defendant can be blamed for the actions. Criminal law places punishment as a serious legal consequence, so its imposition must be based on proven actions, the perpetrator's culpability, the perpetrator's capacity to take responsibility, and the absence of any grounds to excuse the punishment.[9]

Roeslan Saleh explained that criminal responsibility is the transfer of objective blame attached to a criminal act to a perpetrator who subjectively meets the requirements for punishment. Objective blame lies in the act that violates the law, while subjective blame lies in the perpetrator, who can be blamed for their actions. This thinking suggests that a defendant can only be held accountable if their actions are proven to be criminal and their circumstances indicate guilt under criminal law.[10]

Law Number 35 of 2009 concerning Narcotics regulates various forms of narcotics-related acts, from production, possession, storage, distribution, abuse, to rehabilitation. The New Criminal Code then regulates narcotics crimes in Articles 609 to 611, including references to provisions previously known in the Narcotics Law. This change requires that the analysis of criminal liability for narcotics defendants must take into account old regulations, new regulations, and provisions that provide greater benefits to the defendant if there are changes in the law after the act was committed.[11]

The Narcotics Law recognizes treatment and rehabilitation for drug addicts and victims of drug abuse. Rehabilitation cannot be separated from an assessment of the defendant's status, assessment results, level of dependency, and whether the drugs were used for personal use or related to trafficking. At this point, the judge has the duty to distinguish between criminal liability resulting in imprisonment and more appropriate treatment directed at rehabilitation, provided the legal basis is met.[12]Criminal law does not automatically impose punishment upon an act, as

[9]Aryo Fadlian, Criminal Responsibility in a Theoretical Framework, Positum Law Journal, Vol. 5, No. 2, 2020, pp. 10-19.
[10]Kadek Agus Surya Suteja, Evidence and Instruments of Evidence Determine the Qualifications for Criminal Sanctions for Narcotics Abuse Users, Jurnal Lex Dirgantara, Vol. 2, No. 2, 2025, pp. 1-11
[11]Fuad Nur et al., Formulation of Death Penalty Policy in Narcotics Crimes Based on the Principle of Derogable Rights, Halu Oleo Legal Research, Vol. 7, No. 3, 2025, pp. 607-624.
[12]Ahadin Mintarum et al., Rehabilitation for Narcotics Addicts as an Assessment Function, Court Review: Journal of Legal Research (E-Issn: 2776-1916), Vol. 4, No. 03, 2024, pp. 60-93.

punishment must be based on an assessment of whether the act meets the definition of a crime, is unlawful, was committed with error, and lacks any grounds for waiving the punishment. This principle aligns with the fundamental principle of criminal law: there is no punishment without error (nulla poena sine culpa).[13]

The analysis of criminal liability for narcotics defendants in the Mataram District Court's decision is conducted by assessing the fulfillment of the elements of the crime and the defendant's personal circumstances as the party being held accountable. This assessment is based not only on the existence of evidence, but also on the defendant's relationship to the evidence, its unauthorized or unlawful nature, culpability, capacity to assume responsibility, and whether or not there are grounds for waiving the criminal penalty. Each element must be examined sequentially to ensure that the criminal liability imposed on the defendant has a strong legal basis.

The panel of judges then applied Article 609 Paragraph (1) letter a of the New Criminal Code as the basis for sentencing. The application of this article shows that the judge placed the New Criminal Code as the basis in effect at the time the case was decided, taking into account the provisions of changes to criminal regulations after the act was committed. In the decision, the act that originally referred to Article 112 Paragraph (1) of the Narcotics Law was assessed through a new reference in Article 609 Paragraph (1) of the New Criminal Code. The use of this article also affected the fine imposed, namely IDR 300,000,000, with a substitute sentence in the form of 100 days imprisonment if the fine is not paid.

The application of Article 609 Paragraph (1) letter a of the New Criminal Code shows that the panel of judges uses the principle of criminal law which provides space for new regulations as long as the regulations do not harm the defendant. This consideration is evident from the sentence imposed, namely a prison sentence of 4 years and a fine of Rp. 300,000,000 with a substitute of 100 days' imprisonment if the fine is not paid, different from the threat of a fine in Article 112 Paragraph (1) of the Narcotics Law which was previously at least Rp. 800,000,000. The application of this principle shows that the criminal responsibility of narcotics defendants after the enactment of the New Criminal Code is not only determined by proof of the elements of the act, but also by an assessment of the criminal regulations that are most appropriate and more beneficial to the defendant according to the law in force at the time the case is examined and decided.

Linked to the theory of criminal responsibility for narcotics defendants after the enactment of the New Criminal Code, it shows that the punishment of the defendant is not only based on proof of possession of narcotics, but also on the

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[13]Ferdinandus Kila et al., Criminal Liability Without Unlawful Nature in the Perspective of Criminal Law Reform, Journal of Legal Construction, Vol. 4, No. 1, 2023, pp. 28-34.

existence of objective blame and subjective blame attached to the defendant. Objective blame is apparent from the defendant's actions which are deemed to fulfill the elements of Article 609 Paragraph (1) letter a of the New Criminal Code, namely possessing, storing, controlling, or providing Class I Narcotics not plants without rights or against the law. Subjective blame is apparent from the defendant's mental state which is deemed to know the existence of narcotics, control them consciously, be able to understand the consequences of his actions, and not be in a state that eliminates guilt. Roeslan Saleh's theory emphasizes that criminal responsibility can only be imposed if the criminal act is proven, the perpetrator is capable of taking responsibility, there is a mistake in the form of intent or negligence, and there is no excuse. These elements are in line with the analysis in the Mataram District Court case, because the judge assessed that there was a relationship between the defendant YS and the evidence of crystal methamphetamine, glass pipes, consumption tools, laboratory test results stating that the goods contained methamphetamine, and the absence of a permit or legal basis that justifies possession of narcotics. The application of Article 3 Paragraph (1) of the New Criminal Code and Article 609 paragraph (1) letter a of the New Criminal Code also shows that the defendant's criminal responsibility is placed on the applicable legal basis and is more advantageous than the old provisions, especially in the amount of the fine. The decision can be understood as a form of continuing legal blame to the defendant, because his actions were proven to be against the law and his condition met the requirements for being punished, so that imprisonment, fines, substitute fines, destruction of evidence, and confiscation of certain items are forms of criminal responsibility imposed by the judge.

3.2. Weaknesses in the Implementation of Criminal Accountability for Narcotics Defendants Following the Enactment of the New Criminal Code

Lawrence M. Friedman explains that law operates through three main elements: legal substance, legal structure, and legal culture. Legal substance relates to the content of norms that regulate actions and their legal consequences. Legal structure relates to the institutions, apparatus, authorities, and mechanisms that enforce these norms. Legal culture relates to the perspectives, attitudes, and habits of society and apparatus toward the law.[14]

a. Weaknesses of Legal Substance

The legal substance of narcotics cases following the enactment of the New Criminal Code continues to face challenges in the adjustment phase. Law No. 35 of 2009 concerning Narcotics remains in effect and continues to regulate many important matters, such as narcotics classification, procurement, distribution,

[14]Mohd Yusuf DM et al, Analysis of Factors Inhibiting Criminal Law Enforcement in Indonesia from the Perspective of Lawrence Friedman's Theory, Jurnal Ilmiah Advocacy, Vol. 13, No. 2, 2025, pp. 711-725.

treatment, rehabilitation, investigation, prosecution, court hearings, and criminal provisions. At the same time, the New Criminal Code has included provisions for narcotics crimes in Articles 609 to 611. The relationship between these two provisions requires careful legal interpretation to ensure their application is not mutually exclusive.

The New Criminal Code positions Book One as the general rule that serves as a guideline for Book Two, laws outside the Criminal Code, and regional regulations, as long as the law does not specify otherwise. The position of Book One has the legal consequence that narcotics cases must consider the principles of legality, the principle of guilt, justification, excuses, sentencing guidelines, and provisions for changes to criminal regulations that are more favorable to the accused.[15]

The relationship between the Narcotics Law and the New Criminal Code also touches on the principles of lex specialis derogat legi generali, lex posterior derogat legi priori, and lex mitior. The Narcotics Law is specific in that it regulates narcotics in detail, while the New Criminal Code is a codification of the newer national criminal law, and Article 3 of the New Criminal Code provides for new rules if there are changes to the rules after the act has been committed, unless the old rules are more advantageous to the perpetrator. The meeting of these three principles has not been fully accompanied by guidelines that are easy to use by investigators, public prosecutors, and judges in narcotics cases.

The problem of interpretation arises when the accused finds himself in an unclear position between user, addict, victim of abuse, courier, intermediary, dealer, or party in unauthorized possession of narcotics. Each of these positions has different legal consequences. Users or addicts may have grounds for rehabilitation, while illicit traffickers are more appropriately directed toward criminal prosecution. The legal substance does not yet provide sufficiently detailed measures to differentiate these positions in cases where evidence is scarce, accompanied by consumption equipment, and without strong evidence of a distribution network. Determining the defendant's status requires clearer legal measures. The amount of evidence, type of narcotic, class of narcotic, consumption equipment, laboratory results, history of use, assessment results, communication with other parties, money flow, and relationship to the distribution network must all be part of the assessment. Without clear measures, cases with nearly identical facts can result in different verdicts. This impacts legal certainty and a sense of justice for both the accused and the public.[16]

The lack of detailed legal guidance in narcotics cases has led to decisions relying more on the formulation of articles than on a comprehensive assessment of the

[15]Nur Aripkah et al., Renewal of the Concept of Criminal Law in Law No. 1 of 2023 concerning the Criminal Code, Jurnal Fundamental Justice, Vol. 6, No. 2, 2025, pp. 209-226

[16]Farid Iskandar, "Implementation of Criminal Accountability of Drug Dealers for Victims of Narcotics Abuse," Journal of Law Enforcement and Justice, Vol. 2, No. 2, 2021, pp. 96-116.

defendant's standing. Criminal responsibility in narcotics cases should be able to link the act, the fault, the unauthorized or unlawful nature of the offense, the defendant's status, and the basis for the punishment. Without a strong regulatory bridge, Article 609 of the New Criminal Code risks being used only as a formal replacement for the old article, while the need to differentiate between punishment and rehabilitation remains inadequately addressed.

b. Weaknesses of Legal Structure

The legal structure in narcotics cases encompasses the institutions and officials who enforce criminal law, including investigators, public prosecutors, judges, correctional officers, the National Narcotics Agency (BNN), integrated assessment teams, doctors, psychologists, social workers, and rehabilitation institutions. Each institution has different authorities, but they influence each other in determining the direction of criminal responsibility. The quality of the investigation influences the indictment, the quality of the indictment influences the evidence, the quality of the evidence influences the verdict, and the quality of the verdict influences the implementation of the sentence or rehabilitation.[17]

The lack of uniformity in the authorities' understanding of the new regulations can lead to differences in treatment of cases with similar facts. One case may be viewed as unauthorized possession of narcotics, while another case with nearly identical circumstances may be directed towards misuse for personal use or rehabilitation. These differences impact legal certainty, as defendants require a clear basis for assessing the applicable articles, the grounds for conviction, and the form of criminal responsibility imposed on them. A uniform understanding among law enforcement officials is essential for the orderly application of the New Criminal Code in narcotics cases.

Another weakness is the lack of robust assessment and rehabilitation mechanisms to differentiate between addicts or victims of abuse and traffickers. The legal process cannot stop with arrest, confiscation, indictment, prosecution, and sentencing. Law enforcement officials must accurately assess the defendant's status, whether they are a user, addict, victim of abuse, courier, intermediary, dealer, or party in unauthorized possession of narcotics. This assessment determines the form of criminal responsibility, as addicts and victims of abuse have access to medical and social rehabilitation, while traffickers are more appropriately directed toward criminal prosecution.

Without a robust assessment mechanism, the criminal justice system risks treating groups with different statuses through the same criminal channels. The National Narcotics Agency (BNN) also emphasized that the success of handling drug abuse depends not only on law enforcement but also on synergy with the rehabilitation

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[17]Rudi Margono, Narcotics Criminal Law - Regulation and Enforcement, Putra Adi Dharma Foundation, Yogyakarta, 2026, p. 31

process through the Integrated Assessment Team. This statement reinforces the point that weaknesses in assessment and rehabilitation are inherently flawed in the legal structure, as they relate to how officials and institutions assess defendants. If investigators, prosecutors, judges, the BNN, doctors, psychologists, and rehabilitation institutions are not well-connected, the defendant's status can be assessed inaccurately.[18]

c. Weaknesses of Legal Culture

Legal culture is related to how officials and the public view drug cases. According to Lawrence M. Friedman, legal culture influences how the law is used, obeyed, implemented, and accepted by society. It also influences how investigators assess cases, how prosecutors formulate charges, how judges formulate their deliberations, and how the public accepts decisions. This perspective determines whether defendants are immediately viewed as perpetrators who should be imprisoned, or whether they are first assessed based on their role, culpability, and circumstances. Generalizing all drug defendants as perpetrators who should be subject to severe penalties is a crucial issue. Narcotics do have serious impacts on health, families, and the social environment. Public concern is understandable given the persistent high rate of drug abuse.[19]

The paradigm of law enforcement emphasizes proof on the evidence and the articles of the indictment. Evidence is indeed a crucial basis in narcotics cases. The quantity, type, and class of narcotics influence the articles applied. Criminal accountability still requires an assessment of the defendant's mental state and the purpose of possession. Consumption equipment, laboratory test results, usage history, communications, cash flow, and assessment results can provide a more complete picture of the defendant's position.

Public pressure on authorities also influences the direction of case handling. The public often demands harsh action because narcotics are perceived as a threat to the younger generation and environmental security. These demands can encourage authorities to choose criminal prosecution as the most socially acceptable route. Law enforcement must remain grounded in trial facts and legal basis. Addicts and victims of abuse have legal grounds to be judged differently from dealers or intermediaries. Acceptance of rehabilitation remains a challenge within the legal culture.[20]Rehabilitation is often perceived as leniency in drug cases, yet the Narcotics Law places it as part of the legal treatment for addicts and

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[18]Aryadi Almau Dudy et al., Law Enforcement Against Narcotics Crimes Based on Law No. 35 of 2009 and the Attorney General's Guidelines No. 11 of 2021, Indonesia Berdaya, Vol. 7, No. 1, 2026, pp. 279-290.
[19]Rudi Margono, Op. Cit., p. 75
[20]Jessica Olivia Siahaan, The Prosecutor's Authority in Handling Children as Narcotics Abusers: Between Law Enforcement and Child Protection, Judge: Jurnal Hukum, Vol. 6, No. 10, 2026, pp. 1872-1881.

victims of abuse. The National Narcotics Agency (BNN) also emphasizes the importance of synergy between law enforcement and rehabilitation through the Integrated Assessment Team. Rehabilitation is a legitimate legal pathway, not an irresponsible release.

The weakness of the legal culture in the implementation of criminal accountability for drug defendants lies in the perspective of officials and the public, who still tend to view drug cases as cases that must end in punishment, without always providing adequate space to assess the defendant's position more accurately. A view that focuses too much on evidence and the articles of the indictment can narrow the assessment of guilt, the purpose of possession, history of use, assessment results, and the possibility of the defendant being an addict or a victim of abuse. Evidence of methamphetamine, consumption equipment, and laboratory results are indeed the basis for proving illegal possession of narcotics, but the relatively small amount of evidence and the presence of consumption equipment should also open up the assessment of the possibility of personal use or dependence. A legal culture that has not fully accepted rehabilitation as a legitimate legal path makes it easier to choose punishment, while the boundaries between traffickers, users, addicts, and victims of abuse are not always adequately clarified in case considerations.

3.3. An Ideal Model of Criminal Responsibility for Narcotics Defendants in the Future

Ideal criminal liability must combine the doctrine of culpability with proof of the defendant's role. Roeslan Saleh explained that criminal liability is the transfer of objective blame for a criminal act to a perpetrator who subjectively meets the requirements for punishment. Objective blame is evident in the act of possessing, storing, controlling, providing, selling, purchasing, or intermediary narcotics without authorization. Subjective blame is evident in the defendant's knowledge, will, ability to take responsibility, and lack of excuses. A sentence is imposed when both aspects are legally and convincingly proven, not simply because the defendant is close to the evidence.[21]

The relationship between the New Criminal Code and the Narcotics Law must be understood as a unified, complementary legal framework. Articles 609 to 611 of the New Criminal Code serve as an important basis for handling narcotics crimes, particularly those involving unauthorized possession, storage, control, or provision of narcotics. The Narcotics Law retains its primary role as it regulates specific matters, such as narcotics classification, investigation, prosecution, court appearances, treatment, and rehabilitation. The ideal model of criminal liability maintains a link between Article 609 of the New Criminal Code and specific provisions in the Narcotics Law, allowing judges to accurately assess the type of

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[21]Amanda Rahmadhani et al., Criminal Responsibility, Jurnal Sahabat ISNU SU, Vol. 2, No. 1, 2025, pp. 73-79.

narcotic, the defendant's status, and the possibility of rehabilitation. Law Number 1 of 2026 also strengthens the direction of criminal law adjustments to ensure consistent application of the law and maintain legal certainty.

Integrated assessment should be placed as an important part in narcotics cases that show suspicion of self-use or dependence.[22]Small amounts of evidence, the discovery of consumption equipment, a history of use, and the results of a medical examination can be the initial basis for authorities to request an assessment. The integrated assessment team's role is to combine legal, medical, psychological, and social assessments to provide a more comprehensive understanding of the defendant's status. In handling drug addicts and victims of drug abuse, the integrated assessment serves as a collaborative tool between law enforcement officials, the National Narcotics Agency (BNN), the Ministry of Health, and the Ministry of Social Affairs to determine whether the defendant is more appropriately directed towards criminalization, rehabilitation, or other forms of treatment in accordance with the law.

In Portugal, legal accountability in drug cases can be addressed through a clear distinction between personal use and illicit trafficking. Law No. 30/2000 shifted the use, acquisition, and possession of narcotics for personal consumption from a criminal offense to an administrative offense, while illicit trafficking remains a criminal offense. This pattern demonstrates that the state maintains the prohibition on narcotics, but the legal consequences are tailored to the perpetrator's status. Users or addicts found to be in possession of narcotics for personal use are referred to the Commissions for the Dissuasion of Drug Addiction, administrative bodies comprising legal, health, and social representatives. These bodies assess the individual's circumstances, history of use, treatment needs, and the options for administrative sanctions or referral to therapy.[23]

Another country that can be used as a comparison and reference is New Zealand. Its drug treatment model places law enforcement discretion and specialized courts as a means of assessing the relationship between crime, addiction, and recovery needs. The Misuse of Drugs Amendment Act 2019 strengthens police authority to consider prosecution options in drug possession and use cases, with an emphasis on a health-based approach that is more beneficial for individuals experiencing substance use issues. The country also developed the Alcohol and Other Drug Treatment Court, or Te Whare Whakapiki Wairua, a specialized court for offenders related to alcohol or drug addiction. This court program defers sentencing while participants undergo treatment, intensive monitoring, case management, drug testing, mentoring, and regular court appearances. The program can last one to

[22]Ahadin Mintarum et al., Rehabilitation for Narcotics Addicts as an Assessment Function, Court Review: Journal of Legal Research (E-Issn: 2776-1916), Vol. 4, No. 03, 2024, pp. 60-93.
[23]Fadhli Muhaimin Ishaq, Depenalization of Drug Abuse: A Comparative Study of Indonesia and Portugal, PAMPAS: Journal of Criminal Law, Vol. 5, No. 3, 2024, pp. 338-351.

two years, providing judges with a more comprehensive basis for assessing the defendant's progress before determining the final legal consequences.[24]

Rehabilitation, within the ideal model of criminal responsibility, is understood as a form of legal treatment that emphasizes the recovery of drug addicts and victims of abuse, rather than an abdication of responsibility. The Narcotics Law stipulates that drug addicts and victims of abuse are required to undergo medical and social rehabilitation. This provision indicates that drug case resolution can be directed toward either criminalization or rehabilitation, depending on the defendant's status and the legal facts proven in court. Article 54 of the Narcotics Law also emphasizes that a person's status as a victim of abuse must be proven before rehabilitation can be used as the basis for case handling.[25]

Criminal penalties for those involved in illicit drug trafficking must remain firm and enforced. Defendants found to have acted as dealers, intermediaries, couriers who knew their role, or those who profited from drug trafficking can be sentenced according to the severity of their actions and culpability. Judges can consider the quantity of narcotics, how the defendant obtained the goods, the defendant's relationship with the network, the profits received, and the impact of their actions on society. The form of punishment can be imprisonment, a fine, confiscation of goods, destruction of evidence, or additional penalties, as long as it is in accordance with the legal basis and facts proven in court. This type of sentencing pattern maintains firm law enforcement against illicit drug trafficking.[26]

According to the author, the future model of criminal accountability for drug defendants must be based on the application of the same law to cases with similar circumstances. Hans Kelsen views justice in positive law as legality, that is, rules are considered fair if they are applied consistently to everyone in a similar legal position. This view aligns with the need to clearly distinguish the status of drug defendants, whether as illicit traffickers, couriers, intermediaries, users, addicts, or victims of abuse. Punishment for illicit traffickers can be considered fair if their actions, mistakes, involvement with the network, and the consequences of their actions are legally proven. Rehabilitation for addicts and victims of abuse can also be considered fair if their status is proven through assessments, history of use, consumption equipment, medical examination results, and trial facts. Kelsen's theory provides the basis that justice is not determined by emotional judgment, but by the application of legitimate, clear, and consistent rules. The model that connects Article 609 of the New Criminal Code, the Narcotics Law, integrated assessment, punishment, and rehabilitation reflects justice according to Kelsen

[24]Ridhoni Tri Wahyudi and Agus Manfaluthi, Regulation of New Psychoactive Substances in the Indonesian Legal System: Challenges and Reforms, Jurnal De Victim, Vol. 1, No. 1, 2025, pp. 1-13.
[25]Siti Hidayatun and Yeni Widowaty, The Concept of Just Rehabilitation for Drug Users, Journal of Law Enforcement and Justice, Vol. 1, No. 2, 2020, pp. 166-181.
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because each defendant is placed according to their actions, mistakes, and position in the drug case.

4. Conclusion

Criminal liability for narcotics defendants after the enactment of the New Criminal Code rests on proof of criminal acts, mistakes, the ability to be responsible, and the absence of justification or excuse. In the Mataram District Court case, defendant YS was found guilty of unlawfully or illegally possessing Class I narcotics other than plants based on evidence of crystal methamphetamine, consumption equipment, and laboratory results indicating methamphetamine content, so that Article 609 paragraph (1) letter a of the New Criminal Code was applied as a substitute for reference to Article 112 paragraph (1) of the Narcotics Law. The application of the new rules shows the use of provisions that are more advantageous to the defendant, especially in the amount of the fine, and is in line with Roeslan Saleh's theory of criminal liability because punishment is based on objective criticism of the unlawful act and subjective criticism of the defendant. However, its implementation still has weaknesses in the aspects of substance, structure, and legal culture, especially because the relationship between the Narcotics Law, the New Criminal Code, and rehabilitation mechanisms does not have clear guidelines, the authorities are not yet fully uniform in implementing integrated assessments, and the public still tends to view narcotics cases as necessarily ending with severe penalties. The ideal model going forward needs to place defendants based on their actions, mistakes, roles, and circumstances, so that perpetrators of illicit trafficking are still punished firmly, while users, addicts, or victims of abuse proven through integrated assessments are directed to medical and social rehabilitation with supervision in accordance with the principles of legality, the principle of fault, legal certainty, and the purpose of punishment in the New Criminal Code.

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