

Legal Analysis of Criminal Responsibility of Class I Narcotics Distributors Based on Legal Certainty

Bondan Rahadiansyah

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

Abstract. *This research is motivated by Indonesia's position as a country governed by the rule of law in enforcing narcotics crimes. Narcotics trafficking, as an extraordinary crime with organized networks, demands effective law enforcement, particularly against dealers. This study aims to analyze the criminal liability of Class I narcotics dealers, identify weaknesses, and formulate a legal certainty-based analysis. This research uses a normative legal method with a statutory and conceptual approach. The research results show that criminal liability for Class I narcotics dealers remains repressive and poorly differentiated, focusing on the act without in-depth analysis of the perpetrator's culpability. Weaknesses include the unclear concept of dealer, weak evidence of guilt, and the dominance of formal approaches that have the potential to lead to overcriminalization and disparity in sentencing. Therefore, a system reconstruction that emphasizes clear norms, evidence of guilt, and consistent law enforcement is needed to achieve fair legal certainty.*

Keywords: *Criminal Liability; Legal Certainty; Narcotics Dealers.*

1. Introduction

Since its inception, the Republic of Indonesia has asserted itself as a state based on law, placing law as the primary foundation for organizing social, national, and state life. This principle is explicitly stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that "the Republic of Indonesia is a state based on law."¹ This concept of a state based on the rule of law implies that all actions by state administrators and citizens must be subject to the law, and any violations of the law must be resolved through law enforcement mechanisms that uphold justice, legal certainty, and expediency. Thus, criminal law functions not only as a repressive tool but also as an

¹The 1945 Constitution of the Republic of Indonesia, Article 1 paragraph (3).

instrument for protecting public interests and maintaining public order.

In the context of criminal law enforcement, narcotics crimes occupy a highly strategic and problematic position. Narcotics trafficking is no longer viewed as an ordinary crime but has evolved into an extraordinary crime due to its widespread destructive impact on public health, social stability, and national resilience.²The development of increasingly organized narcotics distribution networks, which are cross-regional and even cross-country, shows that this crime has become part of organized transnational crime which is difficult to eradicate with conventional legal approaches.³The phenomenon of increasing drug trafficking not only threatens the younger generation as the most vulnerable group, but also has the potential to damage the foundations of national and state life.

In the drug crime chain, dealers play a crucial role. Dealers are not merely passive intermediaries, but key actors, ensuring the continuity of drug distribution from producers to consumers.⁴The existence of dealers serves as a strategic node connecting the entire drug distribution network, so the success or failure of drug eradication efforts is largely determined by the effectiveness of law enforcement against traffickers. Therefore, determining criminal responsibility for drug dealers is a fundamental aspect of the criminal justice system, as it directly relates to the objectives of punishment, both as a means of deterrence, prevention, and community protection.⁵

In line with these dynamics, Indonesia has undertaken a major reform of its criminal law through the enactment of Law Number 1 of 2023 concerning the National Criminal Code. This reform is not merely a re-codification but also introduces a new paradigm in the criminal accountability system, emphasizing a balance between the principles of legality, culpability, human rights protection, and the principle of proportionality in sentencing.⁶This is in line with the constitutional guarantee in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states that everyone has the right to recognition, guarantee, protection and fair legal certainty.⁷Thus, the application of criminal law to drug dealers must be carried out carefully so that it not only fulfills legal certainty, but also reflects a sense of justice.

Within the framework of the National Criminal Code, Article 610 of Law Number 1 of 2023 regulates acts related to narcotics trafficking as a criminal offense that threatens public order and public health. This regulation demonstrates a new

²Muladi & Barda Nawawi Arief. (2010). *Criminal Theories and Policies*. Bandung: Alumni, p. 34.

³Romli Atmasasmita. (2014). *Introduction to Transnational Criminal Law*. Jakarta: Kencana, p. 23.

⁴Andi Hamzah. (2015). *Principles of Criminal Law*. Jakarta: Rineka Cipta, p. 98.

⁵Barda Nawawi Arief. (2012). *Objectives and Guidelines for Criminalization*. Semarang: Pustaka Magister, p. 56.

⁶Law Number 1 of 2023 concerning the Criminal Code.

⁷The 1945 Constitution of the Republic of Indonesia, Article 28D paragraph (1).

approach that views narcotics crimes as crimes with broad social and public dimensions. However, in judicial practice, the application of this article still has the potential to raise various legal issues, particularly regarding the formulation of elements of the offense, proving the form of guilt, and the limits of criminal liability for dealers within the narcotics distribution network.⁸

The phenomenon of differences in the application of articles, variations in sentencing, and inconsistent considerations of judges in narcotics distribution cases shows that criminal law reform has not been fully followed by uniformity in law enforcement practices.⁹ This situation has the potential to create legal uncertainty and injustice for those seeking justice, while simultaneously weakening the effectiveness of drug eradication efforts. Therefore, in-depth academic research is needed to examine how the criminal liability of drug dealers under Article 610 of the National Criminal Code is formulated and legally implemented.

The issue of criminal liability for Class I narcotics dealers becomes increasingly important when linked to the demand for legal certainty in the criminal justice system. Legal certainty is one of the main pillars of a state based on the rule of law, which demands the formulation of clear, consistent, and uniformly applicable norms. In narcotics cases, differences in interpretation often arise regarding the role of perpetrators in the distribution network, whether as users, intermediaries, or dealers, which directly impacts the severity of criminal liability. This lack of uniformity has the potential to create disparities in sentencing and undermine public trust in the justice system. Therefore, a legal analysis of the construction of criminal liability for Class I narcotics dealers is crucial to ensure that the law is implemented in accordance with the principles of legality and legal certainty.¹⁰

The characteristics of Schedule I narcotics, which have a very high potential for addiction and are not intended for healthcare, make their distribution a serious threat to society. Law enforcement against dealers is aimed not only at punishing perpetrators but also at creating a deterrent effect, preventing the expansion of distribution networks, and protecting the younger generation.¹¹ However, these efforts must remain within the legal framework that guarantees justice and certainty. Therefore, research on the Legal Analysis of Criminal Liability for Class I Narcotics Dealers Based on Legal Certainty is relevant for in-depth examination of the alignment between legal norms, judicial practices, and law enforcement objectives within the national criminal justice system.

The need for legal certainty in handling Class I narcotics distribution cases is also

⁸Sudarto. (2007). *Law and Criminal Law*. Bandung: Alumni, p. 76.

⁹Soerjono Soekanto. (2014). *Factors Influencing Law Enforcement*. Jakarta: Rajawali Pers, p. 53.

¹⁰Arief, BN (2010). *Anthology of criminal law policies*. Jakarta: Kencana, p. 45.

¹¹Soekanto, S. (2014). *Factors influencing law enforcement*. Jakarta: Rajawali Pers, p. 8

closely related to the protection of human rights and the principle of due process of law. Every perpetrator of a crime has the right to a fair, transparent, and legally accountable trial.¹²In practice, the complexity of proving narcotics cases, which often involve organized networks and technical evidence, demands that law enforcement officers be meticulous in applying criminal responsibility norms.¹³Unclear legal construction or inconsistent application of articles can lead to erroneous sentencing or disproportionate sanctions. Therefore, strengthening the legal analysis of the elements of criminal liability for drug dealers is crucial to ensure that every court decision truly reflects legal certainty and justice.

From a criminal policy perspective, the effectiveness of drug eradication is largely determined by the clarity of the formulation and implementation of criminal liability for dealers as key actors in the distribution network. A criminal justice system that provides legal certainty will encourage consistent law enforcement, increase deterrent effects, and strengthen legal legitimacy in the eyes of the public.¹⁴Thus, a comprehensive academic study on the criminal liability of Class I narcotics dealers not only has theoretical value, but also practical significance for the development of national criminal law.

Based on the above description, this research is important to conduct in order to comprehensively analyze the regulation and implementation of criminal responsibility for narcotics dealers based on Law Number 35 of 2009 and Law Number 1 of 2023 concerning the National Criminal Code, by placing the constitutional values of the 1945 Constitution as a philosophical and legal foundation. This research is expected to not only provide a scientific contribution to the development of national criminal law, but also become a material for reflection and consideration for law enforcement officials in implementing the law in a more just, proportional, and oriented towards protecting the interests of society.¹⁵So the author raised this research with the title "Legal Analysis of Criminal Responsibility for Class I Narcotics Distributors Based on Legal Certainty."

2. Research Methods

To ensure the accuracy and depth of analysis, this research is compiled using the following legal research methods:

1. Type of Research

The type of research used in this study is normative legal research, namely

¹²Hamzah, A. (2008). Principles of criminal law in Indonesia. Jakarta: Rineka Cipta, p. 112.

¹³Rahardjo, S. (2009). Law enforcement: A sociological review. Yogyakarta: Genta Publishing, p. 27.

¹⁴Muladi. (2005). Selected chapters on the criminal justice system. Semarang: UNDIP Publishing Agency, p. 76.

¹⁵Sudarto. (1986). Law and criminal law. Bandung: Alumni, p. 34.

research that focuses on the study of positive legal norms, legal principles, and legal doctrines that have developed within legal science. Normative legal research views law as a norm or rule that regulates human behavior in society and serves as a guideline for the organization of national life.¹⁶

This research is descriptive-analytical in nature, because it aims to systematically describe the regulation of criminal responsibility for narcotics dealers based on Law Number 35 of 2009 and Article 610 of the National Criminal Code of 2026, while analyzing its application within the framework of the principles of criminal law and the constitutional values of the 1945 Constitution. Thus, this research not only describes normative provisions, but also provides a critical assessment of the consistency and rationality of its regulations.¹⁷

2. Research Approach

The approaches used in this research include a statutory approach and a conceptual approach. The statutory approach is conducted by examining all laws and regulations related to narcotics crimes, particularly Article 610 of Law Number 1 of 2023 concerning the National Criminal Code, as well as other relevant regulations.¹⁸

A conceptual approach is used to examine basic concepts in criminal law, such as the concepts of crime, drug trafficking, culpability, and criminal responsibility, which are derived from the doctrines of criminal law experts. This approach is essential for establishing a theoretical foundation for interpreting legal norms and assessing their compliance with the principles of legality, culpability, and proportionality of punishment.¹⁹

3. Data source

Data sources are classified into three types of legal materials: primary, secondary, and tertiary. These three materials serve as the basis for conducting a comprehensive legal analysis. Primary legal materials include laws and regulations directly related to the research object, including the 1945 Constitution of the Republic of Indonesia, Law Number 1 of 2023 concerning the National Criminal Code, and other laws and regulations related to narcotics.²⁰

Secondary legal materials include legal literature, research findings, textbooks, scientific journals, and the opinions of criminal law experts relevant to the topic

¹⁶Soerjono Soekanto & Sri Mamudji. (2014). *Normative Legal Research: A Brief Review*. Jakarta: Rajawali Pers, p. 13.

¹⁷Peter Mahmud Marzuki. (2011). *Legal Research*. Jakarta: Kencana, p. 35.

¹⁸Peter Mahmud Marzuki. (2011). *Legal Research*. Jakarta: Kencana, p. 133.

¹⁹Sudarto. (2007). *Law and Criminal Law*. Bandung: Alumni, p. 76.

²⁰Soerjono Soekanto & Sri Mamudji. (2014). *Normative Legal Research: A Brief Review*. Jakarta: Rajawali Pers, p. 14.

of criminal responsibility and drug offenses. Tertiary legal materials include legal dictionaries, legal encyclopedias, and other supporting sources that help explain the legal terms used.²¹

4. Data collection technique

This research uses two main techniques. Data collection in this research is conducted through library research. Library research is conducted by systematically tracing, inventorying, and reviewing primary, secondary, and tertiary legal materials relevant to the research problem. The search is conducted through legislation, criminal law textbooks, scientific journals, and electronic legal sources that can be academically accounted for.²²

Through this technique, researchers attempt to gain a comprehensive understanding of the normative regulations of Law Number 35 of 2009 and Article 610 of the National Criminal Code, the concepts of criminal responsibility, and the views of experts related to narcotics crimes.

5. Data Analysis Techniques

The data analysis in this study was conducted qualitatively using normative analysis methods. The collected data were classified, systematized, and analyzed based on the theoretical framework and relevant principles of criminal law. The analysis was conducted by interpreting the provisions of Law Number 35 of 2009 and Article 610 of the National Criminal Code, linking them to the concept of criminal responsibility, and assessing their compliance with the principles of justice, legal certainty, and expediency.²³

The results of the analysis are then presented in a descriptive-analytical manner, namely by systematically outlining the applicable legal provisions and providing legal arguments for the problems being studied, so that logical conclusions can be drawn that can be scientifically justified.²⁴

3. Results and Discussion

3.1. Current Criminal Liability for Class I Narcotics Dealers

Current criminal liability for Class I narcotics dealers is repressive, broad, and poorly differentiated, as law enforcement focuses more on fulfilling the elements of the act as stipulated in Law Number 35 of 2009 without a balanced, in-depth analysis of the elements of culpability and the perpetrator's role. The use of

²¹Amiruddin & Zainal Asikin. (2012). *Introduction to Legal Research Methods*. Jakarta: Rajawali Pers, p. 118.

²²Soerjono Soekanto. (2014). *Introduction to Legal Research*. Jakarta: UI Press, p. 52.

²³Peter Mahmud Marzuki. (2011). *Legal Research*. Jakarta: Kencana, p. 181

²⁴Soerjono Soekanto. (2014). *Introduction to Legal Research*. Jakarta: UI Press, p. 69.

quantitative indicators such as the amount of evidence and a special minimum sentencing system results in rigid criminal liability, potentially leading to overcriminalization and disparity in sentencing, and does not reflect the principles of justice, proportionality, and legal certainty. Although the National Criminal Code (Law Number 1 of 2023) prioritizes a more humanistic approach through the principle of culpability and individualization of punishment, narcotics law enforcement practices are still dominated by a repressive approach due to the application of the *lex specialis* principle.

3.2. Weaknesses in Criminal Liability for Class I Narcotics Dealers

The weaknesses in criminal liability for Class I narcotics dealers lie in the unclear concept of "dealer," the lack of differentiation between the perpetrator's roles, and the application of the element of culpability, which tends to be objective and formalistic. This situation is exacerbated by repressive law enforcement practices and a special minimum sentencing system that limits judicial discretion, thus giving rise to legal uncertainty, overcriminalization, and disparity in sentencing. Furthermore, there is a lack of synchronization between the approach in Law Number 35 of 2009 and the National Criminal Code, which prioritizes the principle of culpability and individualization of punishment, so that the existing system does not fully reflect justice, legal certainty, and proportionality.

3.3. Legal Analysis of Criminal Liability for Class I Narcotics Dealers Based on Legal Certainty

Criminal liability for Class I narcotics dealers based on legal certainty has not been fully met due to unclear norms, inconsistencies in law enforcement practices, and weaknesses in proving the element of guilt. Existing legal certainty remains formal through the formulation of norms and criminal threats, but has not been accompanied by consistent, fair, and predictable application, resulting in disparities in sentencing. This condition indicates an imbalance between legal certainty and justice as in Gustav Radbruch's theory, necessitating reconstruction of the criminal accountability system through the formulation of clearer norms, strengthening the evidence base, and harmonizing law enforcement practices.

4. Conclusion

Criminal liability for Class I narcotics dealers is currently repressive, broad, and poorly differentiated, focusing on the fulfillment of the elements of the act without a thorough analysis of the perpetrator's guilt and role. This has the potential to lead to overcriminalization and disparities in sentencing that do not reflect justice and legal certainty. The main weaknesses lie in the unclear concept of "dealer," the lack of role differentiation, and the application of the element of guilt, which tends to be formalistic, exacerbated by the limitations of judicial discretion resulting from the special minimum sentence system. Furthermore, criminal liability based on legal certainty has not been optimally fulfilled due to

multi-interpretable norms and inconsistent law enforcement practices. Therefore, system reconstruction is needed through clarifying norms, strengthening evidence, and harmonizing law enforcement to achieve a balance between legal certainty, justice, and proportionality.

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