

Research Article

The Criminal Fine in Class I Narcotics Crime

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ORCIDFardika Izzati Nurriah: <https://orcid.org/0009-0002-9679-1144>**Abstract.**

The occurrence of drug crimes are the cause of various categories of criminal acts and directly affect society, the younger generation, especially drug users themselves. Drug crimes are a form of victimless crimes, which are crimes where the relationship between the perpetrator and the victim is not visible. There are no target victims, because all parties are involved and included in the crime, becoming both perpetrators and victims of the crime. The research method used is sociological juridical, studying the legal reality experienced in the field or is based on problems regarding legal matters and existing realities. Narcotics crimes are considered not to have met the purpose of punishment. A large amount of criminal fines is not carried out by the convict by providing a deterrent effect for the convict. It is expected that paying the criminal fine to the state is not achieved with the convict preferring his imprisonment. For the implementation of criminal fines to run effectively, there should be a balance between the amount of the criminal fine and the length of the substitute prison sentence, especially considering the ability of the convict to pay the fine that has been set.

Keywords: criminal, drugs, fines, narcotics, victims

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1. Introduction

The Unitary State of the Republic of Indonesia based on the Pancasila Law. This aims to protect all Indonesian citizens in accordance with the Fourth Amendment to the 1945 Constitution of the Republic of Indonesia. In running the government, all behavior and actions of citizens must be based on applicable laws, so that the basic principle that is the foundation of a state of law means that all aspects of life, including the administration of government, must be based on law and legislation, not on arbitrary power and protection of human dignity and honor (Rully Abdi & Piatur Pangarimbun, 2019).

A state of law or has the term *rechtsstaat* or the rule of law is a state that in carrying out an action, all are based on rules or in accordance with applicable laws. The aim is for the law to protect all citizens without any intervention from any party by enforcing and

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placing the law in the highest position. One manifestation of the rule of law in Indonesia can be seen from the implementation of laws and regulations as the foundation for the role of state institutions and administrative services (Zaid Afif, 2018).

Implementation of sanctions against perpetrators of drug abuse. Drug abuse is a crime and violation that threatens safety, both physically and mentally for users and also for the surrounding community socially (Taufik Makaro, 2005). the crime of drug abuse is a special crime outside the Criminal Code as explained in Law Number 35 of 2009 concerning Narcotics. in this case the provisions are regulated specifically (special criminal law) which is determined for special groups of people, including military criminal law (special groups of people) and fiscal criminal law (special acts) and economic criminal law (Tri Andrisman, 2010).

The definition of narcotics is contained in Law Number 35 of 2009 concerning Narcotics Article 1 number (1) namely:

Narcotics are substances or drugs that come from plants or not. plants, both synthetic and semi-synthetic, which can cause decreased or altered consciousness, loss of sensation, reduced to relieves pain and can cause dependency, which divided into groups as attached in the Law This.

According to Mardani, what is meant by narcotics is as follows:

Narcotics are drugs or substances that can calm the mind, cause unconsciousness or anesthesia, eliminate pain and discomfort, cause drowsiness or stimulation, can cause stupor, and can cause addiction or dependency and are determined by the Minister of Health as narcotics.

According to Smith Kline and French Clinical in his book Mardani, who defines narcotics as:

Narcotics are drugs which produce insensibility or stupor due to their depressant effect on the central system. Include in this definition are opium, opium derivatives (morphine, codien, heroin) and synthetic opiates (meperidine, methadone).

Meaning: Narcotics are substances that can cause unconsciousness or anesthesia because these substances work to affect the central nervous system. In this definition of narcotics, it includes types of opium, such as morphine, cocaine and heroin or substances made from opium, such as (meripidine and methadone). (Mardani, 2008).

The occurrence of Drug crimes are the cause of various categories of criminal acts or, which directly cause consequences in society, the younger generation, especially drug users themselves. Drug crimes are one form of crime known as victimless crimes.

Victimless crimes are crimes where the relationship between the perpetrator and the victim is not visible. There are no target victims, because all parties are involved and included in the crime, becoming both perpetrators and victims of the crime (Lestari I, 2019).

According to Gatot Supramono in his book divides the categories of narcotics crimes based on the rules contained in the narcotics law (Gatot Supramono, 2009). Categories of narcotics crimes commonly known in Law Number 35 of 2009 concerning Narcotics.

Explanation of the category of narcotics crimes in Law Number 35 of 2009 concerning Narcotics, in reality has not provided a clear concept of drug addicts, drug abusers, and victims of drug abuse. The same treatment between drug addicts, drug abusers, and victims of drug abuse with drug dealers or distributors causes injustice in handling it. The position of drug users becomes difficult to position whether as perpetrators or victims of drug crimes. If positioned as a perpetrator, they will be punished and fined, while positioned as a victim, they will be directed to rehabilitation. The ambiguity of these regulations will lead to misinterpretation in providing criminal sanctions (Biro Humas Hukum Kerjasama, 2025).

Criminal sanctions for perpetrators of narcotics crimes are regulated by a cumulative threat pattern between imprisonment and fines. The formulation of criminal threats can be divided into two models, namely, a model for formulating criminal threats by regulating special minimum provisions and a model for formulating criminal threats that do not regulate provisions regarding special minimums. So that the regulation of criminal sanctions in the form of fines against perpetrators of crimes as a preventive effort as state revenue with the provision of additional penalties in the form of fines.

Fines are now one of the main criminal acts listed in Article 10 of the Criminal Code. Fines are included in the main criminal category, along with the death penalty, imprisonment, imprisonment, and imprisonment, and additional penalties include deprivation of certain rights, confiscation of certain objects, and announcement of the judge's decision (Ira Alia Maerani, Siti Rodhiyah Dwi Istinah, 2022). In reality, the implementation of criminal fines with the enactment of Law Number 35 of 2009 concerning Narcotics until now has not been carried out in accordance with the expectations of the Narcotics Law. This research aims to find out fines for class I narcotics crimes.

2. Methods

This research used sociological juridical, namely an approach to studying 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 primarily examines primary data in addition to data sourced from secondary data (Amiruddin & Zainal Asikin, 2014).

Specification Analytical descriptive research takes a problem or focuses on a problem when the research is conducted and the results are processed and analyzed. Data sources consist of primary and secondary data. Legal material sources consist of primary, secondary, and tertiary legal materials.

The data collection method consists of three stages. First, researchers collect data through observation and questions; second, they conduct library research by reading, reviewing, and processing literature, laws and regulations, articles, or writings related to the research topic (Abdulkadir Muhammad, 2004).

Data analysis method is done qualitatively and presented in the form of words or sentences. Qualitative data is analyzed using a deductive approach. One way to make specific conclusions about general things the author uses an interactive analysis model. So, the qualitative data analysis method collects and selects data from literature studies.

3. Result and Discussion

Criminal acts are the basic part of a mistake made against someone in committing a crime. The existence of a mistake in the relationship between the circumstances and the act that causes blame must be intentional or negligent (Wirjono Prodjodikoro, 2003). Drug crimes are generally not only committed by one individual but are carried out together and even carried out in an organized, neat and secret manner, in addition to that drug crimes have become a serious threat to human life. To improve control and supervision of drug trafficking, joint efforts are needed by law enforcement officers and the community (Fuad Hasan in Hetic, 1996).

Efforts in law enforcement are efforts to realize the legal ideas and concepts that the people hope for into reality (Dellyna, Shant., 1988). Law enforcement against narcotics crimes has been widely carried out by law enforcement officers and has received many judges' decisions. Although it has clear legal regulations, the reality is that during drug

abuse, it has been resolved optimally, in fact, from year to year it has increased in its handling (Andri Winjaya Laksana, 2021).

Drug abuse is a crime and violation that threatens the safety, both physically and mentally, of the user (Hafrida, H., Herlina, N & Adamy Z, 2019). The effects of narcotics besides being sedative and reducing consciousness, cause delusions/hallucinations (marijuana), cause stimulation or stimulant (cocaine). These narcotics can cause dependency (Sylviana, 2001).

The classification of narcotics into 3 (three) groups, based on the provisions in Article 6 paragraph (1) of Law Number 35 of 2009 concerning Narcotics, is classified as follows:

1. Class I narcotics is a narcotic that can only be used for scientific development purposes and is not used in therapy, and has a very high potential to cause dependency.
2. Class II narcotics is a narcotic with medicinal properties used as a last resort and can be used in therapy and/or for scientific development purposes and has a high potential to cause dependency.
3. Class III narcotics is a narcotic with medicinal properties and is widely used in therapy and/or for scientific development purposes and has a low potential to cause dependency (Article 6 paragraph (1) of Law Number 35 of 2009).

Sanctions against perpetrators of drug crimes in every unlawful act must have an appropriate legal response and can provide a deterrent effect for the perpetrator (Gatot Supramono, 2009). Sanctions for drug abuse regulated in Narcotics Law Chapter XV criminal provisions starting from Article 111 to Article 148. Provisions on criminal sanctions for perpetrators of narcotics abuse and illicit trafficking are regulated in Article 111, Article 112, Article 113, Article 114, Article 115, Article 117, Article 118, Article 119, Article 120, Article 122, Article 123, Article 124, Article 125, Article 129, Article 137 and Article 147.

What differentiates the sanctions from the articles above depends on the type/class of narcotics and the weight of the narcotics. In this criminal provision, the threat of criminal sanctions for perpetrators of narcotics crimes is regulated by a cumulative threat pattern between imprisonment and fines. The formulation model of criminal threats in these articles can be divided into two models, namely, the formulation model of criminal threats by regulating special minimum provisions and the formulation model of criminal threats that do not regulate provisions regarding special minimums. While there are four types of punishment for perpetrators of narcotics crimes, namely the death penalty, life imprisonment, temporary imprisonment, and fines (Nursiti & Fakhruallah, 2015).

The imposition of high criminal fines and relatively short substitute fines also occurred in the decision of the Sengkang District Court. The facts that occurred in the trial of the defendant in the narcotics crime, the Sengkang District Court was proven legally and convincingly guilty of committing the crime of “Without rights or against the law selling Class I Narcotics weighing more than 5 (five) grams.” Sentencing the defendant above to 13 (thirteen) years in prison and a fine of IDR 1,000,000,000.00 (one billion rupiah) with the provision that if the fine is not paid, it will be replaced with 4 (four) months in prison. Determining the period of arrest and detention that the Defendant has undergone to be deducted entirely from the sentence imposed (Sengkang District Court decision file).

The incident from the Sengkang District Court decision above can be analyzed that generally the criminal fine as an alternative and the criminal fine as a cumulative of the main criminal penalty stipulated in Law Number 35 of 2009 concerning Narcotics, the convict is unable to pay a sum of money as a criminal fine to the State. In fact, the implementation of criminal fines should bring changes, great benefits for state revenue as a consequence of the implementation of criminal fines for perpetrators of narcotics crimes. The reality in the implementation of criminal fines is not effective, proven by the provisions of criminal fines that use the concept of a minimum that is too large and even seems irrational, while the threat of substitute imprisonment is relatively low.

There is an imbalance between very high fines and relatively low substitute imprisonment, and most of the perpetrators of criminal acts come from the lower middle class. Thus, the application of fines in Class I Narcotics crimes in the implementation of the Sengkang District Court’s decision is considered not to have fulfilled the purpose of punishment, because the large fines are not carried out by the convicts by providing a deterrent effect for the convicts who are expected to pay the fines to the state is not achieved with the convicts preferring their imprisonment.

Meanwhile, another reason is that there is no article that regulates “Coercive Actions or Coercive Power” against convicts who are unable or unwilling to pay the fine before the end of the specified time limit. In fact, if the fine is paid by the convict, the money becomes a source of non-tax state revenue (PNBP) that can be used by the government to finance infrastructure development. Thus, in order for the implementation of the fine to run effectively, there should be a balance between the amount of the fine and the length of the substitute prison sentence, especially the ability of the convict to pay the fine that has been set. Realistically, the amount of the fine imposed in the decision is according to the economic ability and social status of the defendant.

The provisions in Article 148 of Law Number 35 of 2009 concerning Narcotics state that if the criminal fine as regulated in this Law cannot be paid by the perpetrator of a narcotics crime and a narcotics precursor crime, the perpetrator will be sentenced to a maximum of 2 (two) years in prison as a substitute for the fine that cannot be paid (Bakhtiar, 2019). Judging from the provisions for implementing criminal fines in the Narcotics Law, they are slightly different from the provisions for implementing criminal fines in the Criminal Code.

Thus the description above shows that in criminal law, several theories have developed about the purpose of punishment, namely absolute theory (retributive), relative theory (deterrence/utilitarian), integrative theory, treatment theory, and social defense theory. The theories of punishment consider various aspects of the targets to be achieved in the imposition of punishment (Dwidja Priyanto, 2009). The application of criminal punishment which means punishment, the punishment in question is related to the imposition of a criminal sentence and the justification for imposing a criminal sentence on a person who, by a court decision that has permanent legal force (*incracht van gewijsde*), has been declared legally and convincingly proven to have committed a crime.

The difference lies in the type of punishment as a substitute for a fine where in the Criminal Code the substitute for a fine is a maximum imprisonment of 6 (six) months to 8 (eight) months in the case of concurrent, repeated, or committing crimes in office, while in the Narcotics Law states a maximum imprisonment of 2 (two) years as a substitute for a fine. So it is clearly illustrated that the substitute for a fine in narcotics crimes is heavier compared to the crimes regulated in the Criminal Code.

4. Conclusion

Criminal Fines in Class I Narcotics Crimes considered not to fulfill the purpose of punishment, because the prison sentence is 13 (thirteen) years and a fine of IDR 1,000,000,000.00 (one billion rupiah) with the provision that if the fine is not paid, it will be replaced with a prison sentence of 4 (four) months. The large fine was not carried out by the convict by providing a deterrent effect for the convict, it is expected that paying the fine to the state is not achieved with the convict preferring his imprisonment. In order for the implementation of the fine to run effectively, there should be a balance between the amount of the fine and the length of the substitute prison sentence, especially the ability of the convict to pay the fine that has been set. Realistically, the amount of the

fine imposed in the decision is according to the economic ability and social status of the defendant.

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