



# DOUBLE TRACK SANCTION SYSTEM FOR MISUSE OF CLASS I NON-PLANTS NARCOTICS

**Geovanni Villarba Gamas**

(Fakultas Hukum Universitas Atma Jaya Yogyakarta)

\*Correspondence Email: [gamasgeovanni@gmail.com](mailto:gamasgeovanni@gmail.com)

## Abstract

*This article is entitled "Double Track Sanction System Against Narcotics Abuse Class I Not Plants". The thesis with this title aims to know and examine the double track sanction system against narcotics abuse class I not plants and the legal politics of the double track sanction system against narcotics abuse class I not plants. This research is a normative research with a legal political approach. The data source is secondary data consisting of primary legal materials and secondary legal materials. The data collection method uses a literature study. Primary legal materials and secondary legal materials are analyzed using legal analysis methods. The thinking process used to draw conclusions, namely the deductive thinking process. The role of the double track sanction system for the abuse of narcotics class I is not a plant, especially we find in Law Number 35 of 2009 concerning Narcotics and Law Number 1 of 2023 concerning the Criminal Code. There are differences in the regulation of the double track system because there are differences in the concept of the system in the Law governing this matter. The double track system in Indonesia should be developed to provide alternative punishment for drug abusers. The renewal of the Double Track System arrangement can be done by considering the legal system and legal principles applicable in Indonesia. This will enable the creation of legal certainty and provide justice for victims of drug abusers.*

**Keywords:** *Narcotics; Double Track System; Narcotics Abuse*

## 1. INTRODUCTION

The development of science is the basis for the formation of sustainable modernization by following human life patterns so that it also influences the development of human thought patterns and behavior. Indonesia is the country with the fourth largest population with a total of 271,349,889 people from 17,491 islands in the territory of the Unitary State of the Republic of Indonesia (NKRI) based on national data. Indonesia is also a country that has a variety of cultures and natural beauty which can invite foreign tourists to visit and enjoy the culture and natural beauty of Indonesia's motherland. This number makes it possible for a crime to occur based on cultural differences and habits. According to Thorsten Sellin's opinion in the book Introduction to Muljono Wahyu's Theory of Criminology, he defines crime as a violation of group norms. Each culture has different norms that reflect the group's attitudes regarding how a person should act in certain situations. In Law Number 1 of 2023 concerning the Criminal Code (New Criminal Code) regarding narcotics contained in Article 609 is material that is similar to Article 111 and Article 112 of Law Number 35 of 2009 concerning Narcotics which regulates possession, controlling, providing, storing narcotics. This duplication basically repeats the failures created by the Narcotics Law which resulted in the return of prison overcrowding.

## 2. RESULTS AND DISCUSSION

### 2.1 Contents Results and Discussion

### 2.2 Double Track System in Threatening Sanctions for Abuse of Non-Plant Class I Narcotics

Narcotics abuse refers to the illegal use of narcotics for non-medical purposes, solely to feel the effects. This abuse involves consuming large amounts of narcotics irregularly and over a long period of time, causing physical, mental and social health problems. Addiction or dependence

*Geovanni Villarba Gamas*

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on narcotics does not occur suddenly, but rather goes through a series of stages of abuse, including experimental use, social use, situational use, habitual use and finally becoming dependent. Apart from the aspect of the act, criminal punishment must also be seen from the perspective of the person who committed the act. The subjects of a criminal act are basically humans. Article 64 of Law Number 1 of 2023 concerning the Criminal Code contains provisions regarding types of punishment and as a basis for judges in imposing sentences, where there are 3 (three) types of punishment, namely the main type of punishment in the form of imprisonment, imprisonment, criminal supervision, criminal fines and criminal social work. Additional types of crimes include revocation of certain rights, confiscation of certain goods and/or bills, announcement of a judge's decision, payment of compensation, revocation of certain permits and fulfillment of local customary obligations. A special type of punishment is the death penalty.

There are several punishment systems used in Indonesia, namely as follows:

- a) Punishment System in the Criminal Code
- b) There are two types of punishment systems in the Criminal Code, namely alternative and single punishment systems. The alternative punishment system means that the judge in deciding the case may choose his decision, while the single sentence system makes the decision in accordance with the formulation of the relevant article as stated in Article 71 paragraph (1) of Law Number 1 of 2023 concerning the Criminal Code.
- c) Punishment System Outside the Criminal Code
- d) The same is true of the criminal system that exists outside the Criminal Code. This punishment system also adheres to an alternative punishment system and a cumulative punishment system.
- e) Based on the legal system in Indonesia, narcotics abuse is qualified as a crime in the narcotics sector as regulated in Law no. 35 of 2009 concerning Narcotics. Narcotics crime is seen as a form of crime that has serious consequences for the future of the nation, damaging the lives and future, especially of the younger generation. According to Article 127 paragraph (1) Law no. 35 of 2009, includes:
  - a. Every person who abuses class I narcotics is subject to a maximum imprisonment of 4 (four) years.
  - b. Every person who abuses class II narcotics is subject to a maximum imprisonment of 2 (two) years.
  - c. Every person who abuses class III narcotics is subject to a maximum imprisonment of 1 (one) year.

### **2.3 Sanction System Policy in the Ius Constituendum for Combating Narcotics Abuse**

Narcotics abuse is the use of narcotics which is not intended as a means of treatment but because they want to enjoy it in excessive amounts, regularly and for quite a long time, resulting in health, physical, mental and social life problems. Continuous use of narcotics over a long period of time can result in addiction, namely the behavior of dependence on narcotic use. Law no. 35 of 2009 concerning Narcotics (hereinafter referred to as the Narcotics Law) as a revision of Law no. 22 of 1997 concerning Narcotics and covers the classification of narcotics in categories I and II of Law no. 5 of 1997 concerning Psychotropics. This law was issued as an effort by the government to respond to the increasing abuse of illicit narcotics trafficking and to ensure efforts to regulate medical and social rehabilitation for narcotics abusers and addicts in accordance with the objectives contained in Article 4 letter d of Law Number 35 of 2009 About Narcotics. Narcotics crime is no longer seen as an ordinary crime but is an extraordinary crime.

*Geovanni Villarba Gamas*

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Narcotics crime has become transnational in nature with a high modus operandi, sophisticated technology, supported by a wide organizational network. One of the rational efforts used to tackle the circulation of narcotics is a criminal law policy approach. The use of narcotics for treatment is also supported by the Regulation of the Minister of Health of the Republic of Indonesia Number 26 of 2004 concerning the Annual Needs Plan for Narcotics, Psychotropics and Precursors. It is stated in Article 8 that the preparation of the Annual Needs Plan for Narcotics and Psychotropic Substances for health services must take into account the development of disease patterns.

The heaviest threat imposed on perpetrators of narcotics crimes is that the perpetrator be sentenced to the death penalty. The punishment system in Indonesia in the form of the death penalty is the most severe punishment of the many sentences imposed on perpetrators of criminal acts, because this punishment concerns the human soul. The implementation of the death penalty always invites controversy. This does not only happen in Indonesia, but this controversy also occurs in a number of European countries that have canceled the death penalty. Referring to the Criminal Code (KUHP) as the ideal legal model (*ius constituendum*) for Indonesian criminal law, the rules determining the death penalty have been regulated selectively and limitatively. In Law Number 1 of 2023 concerning the Criminal Code, the types of criminal sanctions (*strafsoort*) have been formulated which are explicitly regulated in Articles 66, 67 and 68. The provisions regarding forms of punishment in Article 66 regulate as follows:

- a. The main punishment consists of:
  - 1) Prison sentence
  - 2) Cover-up crime
  - 3) Criminal supervision
  - 4) Criminal fines, and
  - 5) Social work crime
- b. The criminal order as intended in paragraph (1) determines the severity of the punishment

Provisions regarding the death penalty are regulated in Article 67 of Law Number 1 of 2023 concerning the Criminal Code which confirms that the death penalty is a special principal crime and is always punishable alternatively. Furthermore, the rules regarding additional penalties are regulated in Article 68 of Law Number 1 of 2023 concerning the Criminal Code which states that:

- a. Additional penalties consist of:
  - 1) Revocation of certain rights
  - 2) Confiscation of certain items
  - 3) Announcement of the judge's decision
  - 4) Payment of compensation
  - 5) Fulfillment of local customary obligations or obligations according to laws that exist in society
- b. Additional penalties can be imposed together with the main penalty, as a stand-alone penalty or can be imposed together with other additional penalties
- c. Additional penalties in the form of fulfilling local customary obligations or obligations according to laws that exist in society or revoking rights obtained by corporations can be imposed even though they are not included in the formulation of the criminal act.
- d. Additional penalties for attempt and assistance are the same as additional penalties for the criminal act.

*Geovanni Villarba Gamas*

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Furthermore, there is a formulation that specifically explains the execution of the death penalty as regulated in Article 91 of Law Number 1 of 2023 concerning the Criminal Code which regulates that:

- a. The execution of the death penalty can be postponed with a probationary period of 10 (ten) years, if:
  - 1) The public reaction to the convict was not very great;
  - 2) The convict shows regret and there is hope for improvement;
  - 3) The position of the convict in inclusion is not very important; And
  - 4) There are mitigating reasons
- b. If the convict during the probationary period as intended in paragraph (1) shows commendable attitudes and actions, the death penalty can be changed to life imprisonment or imprisonment for a maximum of 20 (twenty) years by decision of the minister who handles government affairs in the field of law and rights. human rights.
- c. If the convict during the probation period as intended in paragraph (1) does not show commendable attitudes and actions and there is no hope of improvement, the death penalty can be carried out on the order of the Attorney General.

Based on this article, it can be understood that the legal policy to address the problem of the death penalty in Law Number 1 of 2023 concerning the Criminal Code seeks to accommodate the wishes of those who support and oppose whether or not the death penalty is necessary within the framework of the system. national law. The pro group focuses more on the general interest (society), while the contra group prioritizes individual interests (the perpetrator's right to life). Law Number 1 of 2023 concerning the Criminal Code applies a conditional death penalty due to a 10 year probation period. This means that a narcotics convict is given the opportunity during this time to realize his mistake and behave well, thereby allowing the death sentence that has been imposed on him to be changed to life imprisonment or 20 (twenty) years in prison. By regulating the death penalty sanction through the principle of balance, it is hoped that it will be able to resolve the pros and cons polemic because the 10 year probationary period basically aims to protect the individual's right to life with the condition that the convict must correct his mistakes, but if while he is in the Penitentiary he does not show any signs of improvement. then the death penalty can be imposed.

Criminal law policy is essentially an effort to create criminal legislation in accordance with the conditions at a certain time (*ius constitutum*) and in the future (*ius constituendum*). A legal system consists of culture, structure and substantive law. Laws are part of the legal substance, criminal law reform, apart from updating legislation must also include updating the basic ideas and science of criminal law. Efforts to overcome crime through the creation of a criminal law (law) are essentially also an integral part of the government's efforts to protect society and achieve social welfare. Based on this explanation, the author concludes that narcotics and psychotropic crimes are included in a special type of crime so that criminal threats against them can be imposed cumulatively by imposing 2 main types of punishment at once, for example imprisonment and a fine or supervision and social work. Special criminal offenses can allow the judge to sentence the defendant to two basic crimes at once, which generally take the form of corporal punishment (in the form of death penalty, life imprisonment or imprisonment) with the aim of making the punishment burdensome for the perpetrator so that criminal acts can be dealt with in society. In the Indonesian criminal

system, the death penalty is the most severe punishment of the many sentences imposed on perpetrators of criminal acts, because this punishment concerns the human soul.

### **3. CLOSING**

#### **3.1 Conclusion**

Based on the descriptions in the previous chapters in this journal, several conclusions can be drawn:

1. The Double Track System in Threatening Sanctions for Abuse of Class I Non-Plant Narcotics still needs to be implemented with the qualification that a person is proven or can be proven to be a victim of narcotics abuse which results in addiction or dependency. This is in accordance with the provisions of Article 127 paragraph (3) of Law Number 35 of 2009 concerning Narcotics, which states that a drug abuser is obliged to undergo rehabilitation if it can be proven or proven to be a victim of a class I non-plant narcotics abuser.
2. The sanctions system policy in the *ius constituendum* in dealing with narcotics abuse can take the form of updating the types of sanctions by looking at several classifications of narcotics abuse. Behind the regulations regarding sanctions for actions in dealing with narcotics, which include medical rehabilitation and social rehabilitation, in the same provisions, the type of social work sanctions in criminal law provisions can be an alternative for narcotics abusers as well as other types of sanctions provisions that have the same alternative equivalent in applying the types of sanctions for narcotics abuse.

#### **REFERENCES**

- Anang Iskandar, 2019, *Politics of Narcotics Law*, PT. Elex Media Komputindo, Jakarta
- Andi Hamzah, 2012, *Criminal Law Terminology*, Sinar Graphics, Jakarta
- Dadang Hawari, 2004, *Al-Quran: Mental Medicine and Mental Health*, Dana Bakti Primayasa, Yogyakarta
- Dahlan, 2017, *Justice Problems*, CV. Budi Utama, Yogyakarta
- Frans Maramis, 1994, *Comparative Criminal Law*, Pustaka Sinar Harapan, Jakarta
- Ismu Gunadi and Jonaedi Efendi, 2015, *Quick and Easy Understanding of Criminal Law*, Kencana, Jakarta
- M. Ali Zaidan, 2016, *Criminal Policy*, Sinar Graphics, Jakarta
- M. Sholehuddin, 2003, *Sanction System in Criminal Law (Basic Idea of the Double Track System and Its Implementation)*, PT. Raja Grafindo Persada, Jakarta
- M. Solehudin, 2007, *Sanction System in Criminal Law*, PT Raja Grafindo, Jakarta
- Muljono Wahyu, 2012, *Introduction to Criminological Theory*, Pustaka Yustisia, Yogyakarta
- Siswanto Sunarso, 2012, *Legal Politics in the Narcotics Law (UU Number 35 of 2009)*, Rineka Cipta, Jakarta
- Soedjono Dirdjosisworo, 2010, *Indonesian Narcotics Law*, Citra Aditya Bakti, Bandung
- Sudarto, 2011, *Capita Selecta Criminal Law*, Alumni, Bandung
- Tina Asmarawati, 2015, *Crime and Punishment in the legal system in Indonesia*, CV Budi Utama, Yogyakarta
- Narcotics Crimes in the Perspective of Criminal Law Reform," *Journal of Sanskara Law and Human Rights*, Vol. 1, No. 2, 2022: 13–24
- Ade Mahmud, "The Problem of the Death Penalty for Narcotics Crime Perpetrators in the Indonesian Legal System," *Journal of Law & Development*, Vol. 51, no. 2, 2021: 456-471
- Alya Clara Angelita and Rugun Romaida Hutabarat, "Criminalization of the Use of Ketamine as a Narcotic Based on Law Number 35 of 2009 concerning Narcotics," *Adigama Law Journal*, Vol. 5, no. 1, 2022: 1291–1315

*Geovanni Villarba Gamas*

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- Amirotul Azizah and Putu Eka Trisna Dewi, "Reformulation of Rehabilitation Provisions for Narcotics Addicts in the Ius Constituendum Dimension," *Yusthika Mahasaraswati Journal*, Vol. 3, no. 2, 2023: 101–128
- Andri Koswara, "Criminal Law Politics Concerning the Regulation of Criminal Acts in Indonesia in Narcotics Cases," *National Scientific Journal*, Vol. 4, no. 3, 2022: 65–73
- Anton Sudanto, "Implementation of Narcotics Criminal Law in Indonesia," *Law Journal*, Vol. 7, no. 1, 2018: 137–161
- Cakra Rismanda and Rehnalemken Ginting Nim, "Factors Causing Crimes of Narcotics Abuse in the City of Surakarta," *Recidive Journal*, Vol. 7, no. 1, 2018: 31–40
- Dewi Iriani, "Drug Crime: Overcoming, Prevention and Implementation of the Death Penalty", *Justitia Islamica*, Vol.12, No.2, 2015: 314
- Fasichatus Sakdiyah, 2013, Double Track System Model of criminal punishment for perpetrators of narcotics abuse, Masters Program, Faculty of Law, University of 17 August 1945 Surabaya.
- Victor Ziliwu, 2017, Enforcement of Criminal Law Against Narcotics Users as Perpetrators of Narcotics Crimes at the Medan Police, Master of Law Study Program, Faculty of Law, University of North Sumatra, Medan