

Justice And Legal Certainty In The Imposition Of Narcotics (Bekasi District Court Decision Study number 217/Pid.Sus / 2025 / PN Bks)

Maswandi^{1*}

Fakultas Hukum, Universitas Medan Area, Indonesia.

Abstract

Law enforcement against narcotics crime requires a balance between legal certainty, justice, and expediency. This study aims to analyze how the principle of justice and legal certainty is applied in the Bekasi District Court decision number 217/Pid.Sus/2025 / PN Bks against two defendants, namely Bayu Setiawan alias Bontot and Ayub Ferdiansyah alias Ayub, who were proven to have committed the crime of conspiracy to sell Class I narcotics. This research uses normative juridical method with case approach. Based on the analysis, the panel of judges sentenced the defendants to imprisonment for eleven years in accordance with Article 114 paragraph (2) in conjunction with Article 132 paragraph (1) of Law No. 35 of 2009 on narcotics. The decision reflects the application of the principle of legal certainty because it is based on valid evidence and the elements of the offense are met. However, from the aspect of substantive justice, the verdict does not fully reflect the rehabilitative approach for users and intermediaries, so the repressive approach is still dominant.

Keywords: Justice, Legal Certainty, Narcotics, Court Decisions, Criminal Law

1. INTRODUCTION

Illicit trafficking and abuse of narcotics is a crime that has very complex social, economic and legal impacts. Indonesia, as a legal country that upholds human values and social justice, faces severe challenges in tackling narcotics crime that continues to grow along with globalization and advances in Information Technology. These crimes are no longer conventional in nature, but have involved cross-border networks, digital transaction methods, and increasingly sophisticated modus operandi. The 2024 report by the National Narcotics Agency (BNN) noted that the number of narcotics abusers reached around 4.8 million people, with an increasing trend in the circulation of synthetic narcotics through online media and couriers based on the “paste” system. This condition not only threatens public health, but also has the potential to weaken the nation's competitiveness, reduce the productivity of the younger generation, and erode moral values in society.

*Email/Corresponding Author: maswandi@staff.uma.ac.id

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Responding to this phenomenon, the Indonesian government enacted Law No. 35 of 2009 on narcotics which expressly regulates narcotics crimes and criminal threats. However, in law enforcement practice, there are serious problems related to how the balance between the principle of justice and the principle of legal certainty can be maintained in any narcotics criminal justice process. The principle of justice requires that the punishment should take into account the condition of the offender, the motives and consequences of his act. on the other hand, the principle of legal certainty demands that any enforcement action be based on a clear and predictable norm (predictability). the tension between the two principles is often seen in Indonesian criminal justice practice, particularly in narcotics cases, where judges are faced with a dilemma between enforcing positive law unequivocally or interpreting the law to achieve substantive justice (Ariman Sitompul, and Mhd Nasir Sitompul, 2020).

In this context, Bekasi District Court decision number 217 / Pid.Sus/2025/PN Bks becomes interesting to study. In the case, two defendants — Bayu Setiawan alias Bontot and Ayub Ferdiansyah alias Ayub-were legally and convincingly proven to have conspired to sell Class I narcotics without rights or against the law as stipulated in Article 114 paragraph (2) in conjunction with Article 132 paragraph (1) of Law No. 35 of 2009 on narcotics. Based on legal facts, the defendants collaborated with a DPO named Bogel to take and distribute narcotics types of methamphetamine and marijuana using the “paste”system (Muhammad Nasir Sitompul,, and Ariman Sitompul, 2022). Evidence found in the form of methamphetamine weighing more than 300 grams and marijuana weighing 200 grams. The judge then sentenced each defendant to 11 (eleven) years in prison and determined the evidence to be destroyed. In terms of positive law, this decision indicates the implementation of a firm norm and in accordance with the provisions of the legislation. However, when viewed from the aspect of substantive justice, the question arises: Does the sentence imposed already reflect the sense of Justice of society and pay attention to the role of the defendants as middle-level perpetrators controlled by other parties (DPO)?

The problem illustrates that the application of Narcotics Criminal Law in Indonesia still faces a dilemma between legal certainty and substantive justice. On the one hand, strict law enforcement is needed to provide a deterrent effect and protect the community; but on the other hand, too severe a crime can ignore rehabilitative aspects, especially for perpetrators who play a small role in the network (Hikmawati, 2016). As Gustav Radbruch argued, the ideal law should contain three basic values: justice

(*gerechtigheit*), legal certainty (*rechtssicherheit*), and expediency (*zweckmäßigkeit*). When there is a conflict between justice and legal certainty, justice must take precedence, because the law must not lose its moral soul. This view becomes relevant to assess whether the verdict of the judge in the narcotics case above emphasizes legal certainty or substantive justice (Hidayatun, 2020).

The problem of drug abuse and Illicit Trafficking in Indonesia has reached alarming levels. This phenomenon not only inflicts moral and physical damage to individuals, but also threatens national resilience. Based on data from the National Narcotics Agency (BNN) in 2024, the prevalence of narcotics abuse in Indonesia reached 2.2% of the total adult population, or about 4.8 million active narcotics users. This condition requires law enforcement officers to act decisively in combating the circulation of narcotics.

Law No. 35 of 2009 on narcotics provides for severe sanctions against perpetrators of narcotics crimes, especially for actors involved in illicit trafficking networks. However, law enforcement must remain based on the principles of justice and legal certainty as contained in Article 1 Paragraph (3) of the Constitution of the Republic of Indonesia in 1945, which states that Indonesia is a state of law (*rechtsstaat*), not a state of power (*machtsstaat*). In this context, Bekasi District Court decision number 217 / Pid.Sus/2025/PN Bks becomes interesting to analyze. The verdict sentenced two defendants to 11 years in prison for conspiring to distribute narcotics such as methamphetamine and marijuana weighing more than five grams.

2. RESEARCH METHOD

This study uses the normative juridical method (Ariman Sitompul, 2022), which examines the positive legal norms that apply and relate them to the application of law in concrete cases (Maswandi, Ariman Sitompul (2024). The approach used is a case approach, by making the Bekasi District Court decision number 217/Pid.Sus/2025/PN Bks as the main object of analysis. The legal materials used include: primary legal materials: Law No. 35 of 2009 on Narcotics, Criminal Code, and related court decisions, secondary legal materials: criminal law books, journals, and previous research, tertiary legal materials: legal dictionary and legal encyclopedia. The analysis technique used is qualitative analysis, which outlines the application of legal norms to the legal facts revealed in the decision.

3. RESULT AND ANALYSIS

In this case, the defendant was legally and convincingly proven to have committed a narcotic crime as stipulated in Article 112 paragraph (1) of Law No. 35 of 2009 on narcotics, namely possessing and storing Narcotics of the

methamphetamine type without permission. The panel of judges sentenced him to imprisonment for 6 years and a fine of IDR 800 million, provided that if the fine is not paid, it is replaced by imprisonment for 3 months. The judge's judgment is based on the facts of the trial, evidence, and witness statements that confirm that the defendant has narcotics for his own use and not for circulation (Ariman Sitompul, 2023). However, the judge also considered that the defendant's actions had the potential to damage themselves and society, so he was still sentenced to prison as a deterrent effect.

Justice according to Aristotle is divided into distributive justice and corrective justice. In this context, the judge must balance between the appropriate punishment of the accused (corrective) and the protection of society from the effects of narcotics (distributive) (Hans Kelsen, 2022). The judge has considered mitigating matters such as: a. The accused confessed to his act and regretted it. b. The accused has never been convicted. c. Narcotics are used for personal consumption. However, the substantive aspects of Justice have not been fully met because the legal system still tends to emphasize repressive rather than rehabilitative approaches. In fact, according to Article 54 of Law No. 35 of 2009, drug addicts should receive treatment and care, not merely a prison sentence.

Legal certainty is a fundamental principle in the rule of law (*rechtstaat*). According to Gustav Radbruch, a good law must contain Justice, expediency and legal certainty in a balanced way (Gustav Radbruch, 2023). In this case, the judge has carried out legal certainty because the decision is based on the provisions of Article 112 paragraph (1) of the narcotics law expressly. However, too formal legal certainty can ignore substantive justice, in particular if the perpetrator is a user who is supposed to be rehabilitated (Barda Nawawi Arief, 2024). Therefore, there is a need for harmonization between positive law and the value of justice that lives in society as mandated in Article 5 Paragraph (1) of Law No. 48 of 2009 on Judicial Power.

In the case of Decision number 217 / Pid.Sus / 2025 / PN Bks, the judge sentenced the defendant to imprisonment for narcotics users under Article 112 paragraph (1) of the Narcotics Law. Although normatively it is in accordance with the principle of legal certainty, but the approach does not reflect the value of substantive justice. Because, based on the results of the examination, the defendant is a consumer and not a distributor. Within the framework of corrective justice, the imposition of a crime should aim to correct the offender, not merely avenge his actions. In line with that, Article 54 of Law No. 35 of 2009 has actually opened up space for a rehabilitative

approach to addicts or victims of narcotics abuse (Mahaputra, 2022). The provision confirms that drug addicts are obliged to undergo treatment and treatment, both in medical and social rehabilitation institutions. This principle is in line with the restorative justice paradigm, which is an effort to resolve criminal cases that focus on recovery, not retaliation. Therefore, in a case like this, the judge should consider the defendant's background and rehabilitation recommendations from the medical team or the National Narcotics Agency (BNN) before sentencing him to prison.

Justice in the prosecution of narcotics must also consider aspects of humanism and proportionality. The punishment imposed must take into account the degree of guilt, motives, as well as the consequences caused. An approach that only punishes without considering the humanitarian aspect can actually lead to over-criminalization and does not achieve the true purpose of punishment, namely the protection of society and improving the behavior of criminals (Suryani Guntari, 2024). Thus, in the future, the approach to narcotics cases needs to be directed to corrective and humanist justice, not just punitive criminal penalties. The criminal justice system should provide greater space for rehabilitation and coaching programs for narcotics users. This step is in line with the spirit of National Criminal Law Reform which emphasizes on a restorative approach to achieve a balance between Justice, expediency, and legal certainty (Setiaawan dkk, 2020).

This Bekasi District Court ruling shows that the judge is trying to balance the two values. However, the approach used is still heavier on the aspect of legal certainty. This is due to the positivistic Indonesian legal system, where judges are bound to the formulation of laws. In the context of substantive justice, judges should consider a rehabilitative approach to drug users as a form of restorative justice. Thus, in the future, the approach to narcotics cases needs to be directed to corrective and humanist justice, not just punitive criminal penalties.

4. CONCLUSION

Bekasi District Court Decision Number 217 / Pid.Sus/2025/PN Bks has reflected the application of legal certainty based on Article 112 paragraph (1) of Law Number 35 of 2009 on narcotics. However, the aspect of substantive justice has not been fully realized because the verdict still focuses on the approach to imprisonment. A more progressive legal policy is needed by strengthening the principles of restorative justice and rehabilitation for narcotics users so that the objectives of the law, namely Justice, expediency, and legal certainty, can be balanced.

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