



Legal Review of the Double Track System on Handling Narcotics Abuse

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Abstract

This study aims to analyze the regulation and application of the *Double Track System concept* in Indonesian criminal law, especially for the crime of drug abuse. This research is a normative legal research, with the approach of the *Statute Approach*, *Conceptual Approach*, *Case Approach*. The technique of collecting legal materials with literature studies and analysis of legal materials with descriptive analysis, the reasoning used is deductive reasoning. The results of the study show that this two-track sanction system has undergone significant development, which was initially only applied in a limited way in sectoral laws has now been generally confirmed in Law Number 1 of 2023 concerning the New Criminal Code, marking a paradigm shift from retributive to a more humanistic, corrective, and rehabilitative approach. In practice, in narcotics cases, this system has proven to be very effective because it provides flexibility for judges to differentiate selectively between dealers who need to be dealt with firmly and addicts or victims who need healing through medical and social rehabilitation, so that the goal of individual recovery can be achieved while simultaneously breaking the chain of narcotics distribution from the demand side.

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1. Introduction

Illicit drug trafficking is an extraordinary crime, and therefore requires extraordinary handling. Through the National Narcotics Agency, the government is intensifying efforts to prevent, eradicate, and rehabilitate drug addicts and abusers. " *Extraordinary crime must be treated with extraordinary means. The increase in illicit drug trafficking is directly proportional to the number of drug addicts and abusers. Therefore, it requires massive and comprehensive handling. The pattern of narcotics crime case handling is continuously evolving. Through the National Narcotics Board, the government is intensifying efforts to prevent, combat, and rehabilitate.* " ^[1]

Narcotics crimes are regulated by Law Number 35 of 2009 concerning Narcotics. This law was created based on considerations such as the fact that narcotics, on the one hand, are drugs or substances used in medical treatment, health services, and scientific development, and on the other hand, they can also lead to highly detrimental dependency if misused without strict and thorough control and supervision.

Illegal drug syndicates constitute extraordinary crimes. It is also considered that narcotics crimes are transnational in nature, carried out using sophisticated methods, sophisticated technology, supported by extensive organizational networks, and have resulted in numerous victims, especially among the nation's youth. This, of course, is extremely dangerous for the lives of society,

¹ Nurul Huda, et al., *Integrated Assessment: Implementation of Restorative Justice to Countermeasure Drugs Crime in Indonesia*, Journal Legal Policy Science, National Journal of SINTA Accreditation 2 Decree of the Ministry of Research, Technology and Higher Education: No: 34/E/KPT/2018, Volume 14, Number 1, March 2020, page. 112.

the nation, and the state. Given the development of narcotics crimes, Law Number 22 of 1997 concerning Narcotics is no longer appropriate to the current situation and conditions for combating and eradicating narcotics crimes.

Due to ongoing drug abuse, the government has taken firm action against syndicates and dealers, imposing severe penalties, even the death penalty. For drug addicts and victims of drug abuse, the government has attempted to mitigate the negative impacts of drug use by providing rehabilitation facilities, both medical and social.

From a legal perspective, drug addicts cannot be categorized as mere criminals, because the basic nature of crime must cause harm to others besides themselves. This position distinguishes them from victims of drug abuse, addicts are parties who are trapped in substance dependence due to their own actions, while victims are parties who suffer harm due to the actions of others. This view then leads to the understanding that the act of using narcotics for personal use is included in the category of crime without victims. This means that if the harm or bad impact only affects oneself, then the act does not fulfill the elements of a crime that causes harm to a third party, so that its handling is not sufficient only with criminal punishment alone.

Handling narcotics cases no longer relies solely on a criminal approach. The implementation of a two-track system differentiates legal treatment between traffickers and addicts, viewing addicts as victims of dependence in need of recovery, not simply as criminals. However, the implementation of this provision in practice still raises various questions, related to the interpretation of the rules, the implementation mechanisms, and the consistency of the treatment applied. This provides an important basis for further examining the issues raised in this study.

2. Research Method

The type of research used is normative legal research, a scientific approach that focuses on the systematic study of legal norms contained in various written legal instruments, both nationally and internationally. This method emphasizes the construction of positive law as the primary basis for understanding, interpreting, and assessing the substance of laws and regulations relevant to the issues being studied.

This research uses four types of integrated approaches, namely the statutory approach which is carried out by examining the written legal provisions in force in Indonesia, the conceptual approach which refers to the developing legal views and doctrines, the case approach by examining real legal events that have occurred, and the sociological approach which reviews the application of law and its impact on people's lives.

The legal materials used in this study include primary, secondary, and tertiary legal materials; primary legal materials consist of the 1945 Constitution of the Republic of Indonesia, the Law on Narcotics, and other related laws and regulations, while secondary legal materials consist of expert opinions, literature, and previous research results related to the problems studied, and tertiary legal materials consist of legal dictionaries and other supporting references to clarify understanding of the legal provisions applied.

The legal material collection technique used by the researcher

is through a literature study conducted in the library of the University of Mataram and the library of the Faculty of Law, Social and Political Sciences, University of Mataram as well as through the internet and e-journals focused on the e-resources website of the National Library, the official websites of government and non-government institutions, as well as national and international e-journals that have been translated into Indonesian that are related to the legal issues being studied.

3. Results and Discussion

3.1. Double Track System Regulations in Indonesian Criminal Law

Criminal law is part of the overall law applicable in a country with a legal system. Law is coercive and binding, and therefore has consequences for its implementation. These consequences include sanctions, both criminal and disciplinary (maatregel).^[2]

In classical criminal law, punishment is retribution for a wrong done by the perpetrator. Punishment focuses on the act and its consequences. Punishment is suffering/unpleasant treatment by a legitimate authority against a person who commits a crime. According to Muladi, in modern criminal law, the imposition of criminal sanctions is more oriented towards the act and the perpetrator, not only encompassing punishment that is suffering in nature, but also oriented towards educational content^[3].

In modern legal developments, the term "double-track system" is used, meaning a separation between criminal sanctions and disciplinary sanctions. This development of the legal system introduced disciplinary sanctions as an alternative to primary punishment, particularly imprisonment. This stems from a lack of confidence in the effectiveness of imprisonment as a form of punishment or sanction.

The use of the Double Track System has become an international trend, a consequence of the adoption of the Neoclassical school, which seeks to capitalize on the strengths and abandon the weaknesses of the other two schools of criminal law, namely the classical and modern schools^[4]. Like the traditional approach, which assumes that the system of measures is only imposed on those who are unable to take responsibility, it is time to abandon it.

The regulation of the Double Track System, or two-track sanction system in Indonesian criminal law, is a manifestation of the development of legal thought that is dynamic and responsive to the needs of society. Historically, this system did not emerge suddenly in its entirety, but rather underwent a long process that began with partial implementation in various special laws, until finally being adopted comprehensively and becoming a general system in Law Number 1 of 2023 concerning the Criminal Code (New Criminal Code). This marks a fundamental transformation from the original single-track penal system, which only recognized criminal sanctions, to a more diverse and humane system that distinguishes between criminal sanctions and sanctions for actions.

During the Old Criminal Code (WvS 1918)'s enactment, the concept of these two types of sanctions was not yet explicitly

² M. Hamdan Manan, *Criminal Law: Principles, Theories, and Implementation*, Jakarta: Sinar Grafika, 2018, p. 138.

³ Muladi and Barda Nawawi Arief, *Criminal Theory and Policy*, Bandung: Alumni, 1992, p. 45.

⁴ *Ibid.* Page 52

and systematically recognized^[5]. Criminal law at that time predominantly adhered to classical understanding, emphasizing the principles of guilt and appropriate retribution. Therefore, the sanctions recognized were limited to types of crimes such as imprisonment, confinement, fines, and revocation of certain rights. Although there were several provisions that had similar nuances to these actions, they had not yet been constructed as a stand-alone system. Therefore, the provisions in the Old Criminal Code were considered less flexible and less able to meet the challenges of handling crimes that were increasingly complex and had diverse characteristics of perpetrators.

In response to these limitations, lawmakers began gradually introducing the concept of the Double Track System through legislation in specific or sectoral areas. This was done because certain types of crimes require specific handling that cannot be resolved solely through conventional criminal justice mechanisms. These sectoral laws became the forerunner and "laboratory" for the implementation of the double track system, which was later used as a reference in the drafting of the New Criminal Code, demonstrating consistency in national legal policy towards realizing a more effective and equitable criminal justice system.^[6]

The culmination of this regulatory development occurred with the enactment of Law Number 1 of 2023 concerning the New Criminal Code, which institutionalized the Double Track System as a general system applicable to all criminal offenses. This enactment marked the point that the double track system was no longer an exception but had become the basic norm in national criminal law. This was a significant milestone, demonstrating the state's commitment to moving away from the old mindset that relied too heavily on prisons and toward a more modern, adaptive system oriented toward recovery and community protection.

3.1. Implementation of the Double Track System in Handling Narcotics Abuse

Addressing the problem of drug abuse and illicit trafficking in Indonesia has long been viewed not only as a legal issue, but also as a highly complex public health and social problem. Therefore, the approach used in positive law is no longer rigid and solely reliant on repressive aspects, but has evolved to adopt the concept of a double-track system, or a two-track sanction system. The application of this system in narcotics law aims to provide a more targeted legal response, whereby perpetrators who are dealers and those who are addicts or abusers can be treated differently according to their characteristics and treatment needs.^[7]

The primary legal basis governing this matter is contained in Law Number 35 of 2009 concerning Narcotics. This law explicitly recognizes that handling narcotics cases must differentiate between punitive criminal actions and therapeutic and restorative measures. This marks a significant paradigm shift, where the state is not solely focused on eradication through imprisonment, but also seriously undertakes rescue efforts through rehabilitation for those who truly require medical and social care.

The application of the double-track system in this context recognizes that drug addicts and drug abusers are individuals in need of help and treatment, not simply criminals who must be imprisoned. Therefore, the law provides law enforcement and judges with the option of imposing not only prison sentences but also mandatory rehabilitation programs. These two types of sanctions can be applied simultaneously or individually, depending on the assessment of the offender's condition.^[8]

In criminal law, Article 127 of the Narcotics Law is a key article governing the criminal liability of drug users. Paragraph (1) of this article still carries the threat of imprisonment as a form of accountability for their actions. However, paragraphs (2) and (3) provide special provisions that allow perpetrators proven to be addicts or abusers to be subject to mandatory medical and social rehabilitation. This demonstrates the balance between law enforcement and humanitarian aspects.

The implementation of this system provides judges with significant flexibility in deciding cases. Judges are no longer bound by a rigid formula that sentences everyone to prison, but instead have the authority to thoroughly assess the perpetrator's background^[9]. If, based on the examination and expert testimony, it is determined that the perpetrator requires treatment, the judge can decide to order rehabilitation, either as a substitute for or as a supplement to the sentence, in the best interests of the perpetrator and society.

The implementation of the double-track system also aims to break the chain of drug distribution from the demand side. By treating users and addicts, demand for drugs will automatically decrease. This approach is far more effective and sustainable than simply imprisoning offenders, who often return to drug use after being released because they never received complete treatment^[10].

The implementation of the Double Track System in handling drug abuse represents a highly progressive and humane legal breakthrough. This system successfully combines the firmness of law enforcement through criminal sanctions with a gentle rehabilitative approach through disciplinary action. With this system, it is hoped that handling drug cases will not be solely focused on punishment, but will also be able to save lives, restore health, and restore human dignity so that they can once again be useful to the nation and state.

4. Conclusion

Based on the results of the study, it can be concluded that the regulation of the double track system in Indonesian criminal law has a clear legal basis, which prioritizes the imposition of criminal sanctions as well as action sanctions as a form of punishment that is not only retaliatory in nature, but also aims to improve and educate perpetrators of crimes.

The implementation of this system in handling drug abuse has been carried out as a form of justice that is adjusted to the status of the perpetrator as a victim of addiction, although in its implementation there are still several obstacles so that optimization is needed so that the goals of recovery and prevention of relapse can be achieved optimally.

⁵ *Wetboek van Strafrecht (WvS)* 1918

⁶ Jimly Asshiddiqie, *Commentary on Law Number 1 of 2023 concerning the Criminal Code*, Jakarta: Sinar Grafika, 2023, pp. 50-55

⁷ Sakdiyah, Fasichatus, Emy Herlin Setyorini, and Otto Yudianto, "Double Track System Model of Criminal Procedure for Narcotics Abusers According to Law Number 35 of 2009", *Jurnal Yustitia* 22, no. 1 (2021): 109–112.

⁸ *Journal of Rehabilitation Program Analysis on Narcotics Dependence Problems*, University of Indonesia Repository, 2025, p. 19.

⁹ M. Hamdan Manan, *Criminal Law: Principles, Theories, and Implementation*, Jakarta: Sinar Grafika, 2018, p. 145.

¹⁰ Barda Nawawi Arief, *Criminal Law Politics Towards Just Law Enforcement*, Jakarta: Kencana, 2016, pp. 155–157.

References

1. Wibowo A, Sari RP. Implementation of the double track system in handling narcotics abuse in Indonesia. *J Crim Law Criminol.* 2022;8(1):81.
2. Arief BN. Various principles in the formulation and enforcement of criminal law. Bandung: Citra Aditya Bakti; 2019. p. 132.
3. Arief BN. Criminal law politics towards just law enforcement. Jakarta: Kencana; 2016. p. 155–157.
4. Huda N, *et al.* Integrated assessment: implementation of restorative justice to countermeasure drug crime in Indonesia. *Ilm J Kebijak Huk.* 2020 Mar;14(1):112.
5. Criminalization in Indonesia. *J Law Dev.* 2017;36(3):401.
6. Muladi, Arief BN. Criminal theories and policies. Bandung: Alumni; 2020. p. 45.
7. Manan MH. Criminal law: principles, theories, and implementation. Jakarta: Sinar Grafika; 2018. p. 138.
8. Muladi, Arief BN. Criminal theory and policy. Bandung: Alumni; 1992. p. 45.
9. Asshiddiqie J. Commentary on Law Number 1 of 2023 concerning the Criminal Code. Jakarta: Sinar Grafika; 2023. p. 50–55.
10. Sakdiyah F, Setyorini EH, Yudianto O. Double track system model of criminal procedure for narcotics abusers according to Law Number 35 of 2009. *J Yustitia.* 2021;22(1):109–112.
11. Journal of rehabilitation program analysis on narcotics dependence problems [Internet]. University of Indonesia Repository; 2025. p. 19.
12. Manan MH. Criminal law: principles, theories, and implementation. Jakarta: Sinar Grafika; 2018. p. 145.

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