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Legality, Certainty, and Judicial Omission of Financial Penalties in Narcotics Sentencing: Evidence from Indonesia

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Abstract

This study examines judicial interpretation of criminal sanctions under Article 132 paragraph (1) of Law Number 35 of 2009 on Narcotics by analyzing the District Court of Tebing Tinggi Decision Number 174/Pid.Sus/2025/PN Tbt. The central issue concerns the court's omission of financial penalties despite the fact that the principal offense referred to particularly Article 114 paragraph (1) explicitly mandates a cumulative sanction system combining imprisonment and fines. Using doctrinal legal research, the study finds that the judge's reliance solely on grammatical interpretation disregarded the systematic construction and normative purpose of narcotics sentencing, which regards financial sanctions as an imperative element. Such interpretation not only undermines the principles of legality and legal certainty but also weakens the effectiveness of criminal policy in addressing narcotics offenses as extraordinary crimes. This research highlights the necessity of systematic statutory interpretation and recommends normative refinements, including clearer sentencing guidelines, to prevent future disparities in judicial decisions.

INTRODUCTION

In contemporary criminal law doctrine, the requirements for imposing punishment on perpetrators of criminal acts cannot be separated from the framework of the sentencing system applied in Indonesia, which not only emphasizes criminal liability relating to the legal subject (person) and the act, but also comprehensively regulates the types, forms, and purposes of punishment imposed. This is consistent with the view of Barda Nawawi Arief, who states that *"sentencing policy must be integral, encompassing policies concerning criminal acts, offenders, and sanctions,"* so that all these elements must be placed within a single harmonious unity (Arief, 2017). Thus, the Indonesian sentencing system must be understood as an integrated structure in which the elements of the person, the act, and the type of criminal sanction must be examined in alignment so that law enforcement can operate proportionally, consistently, and in accordance with the principles of justice.

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In addition to certainty, the principle of legal certainty constitutes one of the fundamental aspects of the Indonesian legal system. Legal certainty requires that every provision concerning offenders, acts, and applicable criminal sanctions be formulated in a manner that ensures the law applies clearly, definitively, and consistently, allowing individuals to predict its application and preventing excessive interpretative discretion in judicial practice (Schaufeli et al., 2006). In assessing this, one must return to the primary objectives of law enforcement itself, namely to realize justice, legal certainty, and societal benefit in Judicial Commission of the Republic of Indonesia.

Nevertheless, within the Indonesian judicial system, judges possess the authority to interpret the law when the norms encountered are incomplete, unclear, or cannot be directly applied *(incomplete, vague, or obscure)* (Hidayat, 2023). This authority is grounded in Article 5 paragraph (1) of the Law on Judicial Power, which instructs judges to "explore, follow, and understand the legal values and sense of justice within society." Although this authority is formally regulated, it is not absolute and is subject to limitations, such as requiring judicial interpretation to respect the principle of legality, under which a judge must not reduce or disregard the criminal sanctions established by the legislature, nor contradict the expressly stated purposes of punishment (Arief, 2021). Accordingly, the exercise of judicial interpretive authority must be conducted with caution to avoid deviations from norms formally formulated in statutory law.

In a more specific context, the principle of legal certainty serves as an essential foundation for the formulation and implementation of the sentencing system, including within Law Number 35 of 2009 on Narcotics. The law establishes a strict and imperative sentencing structure by requiring the imposition of imprisonment and fines cumulatively (Fajar et al., 2024). This cumulative sanction pattern is not only intended to create a strong deterrent effect but also to affirm the characterization of narcotics offenses as extraordinary crimes necessitating stricter and more proportional law enforcement and sentencing approaches. This commitment aligns with international provisions, particularly the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988, which obligates states to *"impose adequate penalties particularly imprisonment or other forms of deprivation of liberty"* and to apply *"financial sanctions to eliminate economic gain (*United Nations Convention Against Illicit Traffic In Narcotic Drugs And Psychotropic Substances). The clear formulation of sentencing within this statute provides certainty for law enforcement officials in assessing the offender's degree of responsibility and determining the most appropriate sanction, enabling consistent application of the law while remaining within the boundaries of legal certainty.

In practice, particularly within judicial proceedings, the implementation of the sentencing system under the Narcotics Law does not always function as intended. One notable example is the Judgment of the Tebing Tinggi District Court Number 174/Pid.Sus/2025/PN Tbt dated 28 October 2025, in which the judge declared the defendant guilty of "criminal conspiracy to unlawfully sell Category I Narcotics" as charged in the primary indictment of the Public Prosecutor. What is notable in this decision is that although the judge found the defendant guilty, the court imposed only imprisonment without imposing the mandatory fine. Problems arise when Article 132 paragraph (1) is compared with the principal offense provisions that constitute the object of the conspiracy, such as Article 114 of the Narcotics Law, which expressly stipulates cumulative imprisonment and fines. Doctrinally, the sentencing structure for criminal conspiracy should follow the sanction construction of the principal offense (Fadillah, 2021). Law Number 35 of 2009 on Narcotics is one of the statutory provisions outside the Criminal Code that explicitly mandates both imprisonment and fines to be imposed concurrently, consistent with its cumulative sentencing model (Zuniarto, 2020).

Accordingly, when the principal offense requires both imprisonment and fines, individuals engaged in criminal conspiracy to commit such an offense should not be exempt from the imposition of fines. The inconsistency between the statutory construction and its judicial application reveals an issue regarding how judges interpret and apply legal norms. The judge's decision not to impose a fine in this case raises significant questions concerning statutory interpretation and application, particularly within the context of the Narcotics Law, which was specifically designed to be strict and to maximize deterrence. The omission of a fine in narcotics cases may inadvertently diminish the effectiveness and objectives of sentencing under the Narcotics Law, as well as create disparities between judicial decisions and generate uncertainty in legal practice.

The judge's considerations in this decision carry significant consequences, as they contradict the principles of legality and legal certainty. When criminal sanctions expressly established by the legislature are not used as the basis for sentencing, such a ruling may not only conflict with positive law but also weaken the degree of legal certainty upheld by judicial decisions.

METHODS

This study employs a doctrinal legal research method, namely a legal research approach that relies on library-based study to examine and analyze written legal norms and relevant legal doctrines (Djulaeka, 2020). Doctrinal legal research is conducted by reviewing primary legal materials such as statutory regulations, as well as secondary legal materials in the form of academic literature and legal doctrines.

The main focus of doctrinal legal research is to understand the content and structure of applicable legal norms, as well as to assess their consistency and effectiveness in practice (Sufiarina et al., 2024). In this study, the legal substance analyzed relates to the Judge's interpretation of the criminal provisions under Article 132 paragraph (1) of Law Number 35 of 2009 on Narcotics in the Decision of the District Court of Tebing Tinggi Number: 174/PID.SUS/2025/PN TBT.

The typology of this research is descriptive-analytical, a method aimed at systematically explaining statutory provisions and legal doctrines related to the issue of sentencing under Article 132 paragraph (1) of the Narcotics Law, while also elaborating on how these norms are applied by judges in judicial practice. The descriptive approach is used to illustrate the legal construction concerning sentencing for narcotics conspiracy crimes, including the sanction patterns established by the statute, and to examine the context of the application of these norms as reflected in the Decision of the District Court of Tebing Tinggi Number 174/Pid.Sus/2025/PN Tbt.

The data used in this study are secondary data obtained through library research on legal materials consisting of Primary Legal Materials and Secondary Legal Materials (Engkizar et al., 2026; Ibrahim et al., 2023; Purwanti & Zalianti, 2018; Rahawarin et al., 2025). Primary Legal Materials include statutory regulations directly related to the issue of sentencing for narcotics crimes, such as Law Number 35 of 2009 on Narcotics and the Decision of the District

Court of Tebing Tinggi Number 174/Pid.Sus/2025/PN Tbt as the object of analysis. Secondary Legal Materials consist of legal literature in the form of books, scholarly journals, legal articles, as well as expert opinions discussing sentencing concepts, juridical interpretation of narcotics provisions, and fundamental principles such as legal certainty and proportionality in the imposition of criminal sanctions.

The data collection technique used is library research, namely collecting data through the examination of written sources in both printed and electronic forms. Data analysis in this study employs a qualitative approach, by elaborating legal materials and secondary data narratively, systematically, and logically. The data are analyzed inductively, beginning with the concrete legal fact in the form of the Decision of the District Court of Tebing Tinggi Number 174/Pid.Sus/2025/PN Tbt, then correlating it with statutory provisions, sentencing theories, and relevant legal doctrines to generate scientifically accountable conclusions.

RESULT AND DISCUSSION

Judicial Interpretation of Sentencing Provisions under Article 132 Paragraph (1) of Law Number 35 of 2009 on Narcotics in the Decision of the Tebing Tinggi District Court Number 174/Pid.Sus/2025/PN

According to Article 1 point 18 of Law Number 35 of 2009 on Narcotics, criminal conspiracy is an act committed by two or more persons who collude or agree to conduct, carry out, assist, participate in, order, encourage, facilitate, provide consultation, organize, or become part of an organization involved in a narcotics crime, or to organize the commission of a narcotics offense. With respect to criminal conspiracy as regulated in Article 132 paragraph (1) of Law Number 35 of 2009 on Narcotics, the provision governs the imposition of criminal sanctions for conspiracy, attempts, and aiding the commission of narcotics crimes. The formulation of this provision is highly specific because it encompasses conduct that has not yet reached the stage of completion of the principal crime but is already considered sufficiently dangerous to warrant sanctions equivalent to the principal offense (Syah, 2020).

The character of the provision on criminal conspiracy demonstrates that the legislator recognizes the significant moral and social harms posed by narcotics offenses, such that even the stage of agreement alone is deemed a punishable act. This serves as normative preventive enforcement, whereby the sanctions imposed are identical to those provided in the principal articles (Pinontoan, 2020).

The construction of criminal sanctions under Article 132 paragraph (1) cannot be separated from the sentencing provisions in Articles 114, 112, and other articles within Chapter XV on narcotics offenses. The criminal sanctions regulated therein apply to actions involving Schedule I narcotics, where imprisonment and fines are imposed cumulatively. One key feature of the Narcotics Law is the mandatory application of cumulative sanctions imprisonment and fines simultaneously distinguishing it from the general sentencing system under the Criminal Code (KUHP) (Haryanto et al., 2021).

The legislator does not grant judges the discretion to choose between imprisonment or a fine; both must be imposed concurrently. Thus, the cumulative nature of the sanctions is not subject to interpretation but constitutes a binding normative requirement. The cumulative sentencing system enacted by the legislator is closely related to the extraordinary nature of narcotics crimes. As offenses categorized as *extraordinary crimes*, the legislator formulates norms, substance, sanctions, and their application in a strict and precise manner, minimizing judicial discretion. Emphasis on deterrence is one of the objectives of sanctions for narcotics crimes; therefore, sanctions serve not only punitive purposes but also preventive and protective functions for society. Cumulative sanctions, combining deprivation of liberty and financial penalties, are intended to exert stronger pressure on offenders.

From the perspective of punishment theory, the Narcotics Law adopts an integrative approach as articulated by Barda Nawawi Arief, combining retribution, prevention, and social protection within a unified policy (Arief, 2021). The provisions in the Narcotics Law manifest a systemic sentencing policy in which offenses are strictly formulated, sanctions are strictly designed, and objectives are directed toward broad crime prevention. Accordingly, Article 132 paragraph (1) operates within a sentencing framework that regards criminal conspiracy as a serious threat that does not allow for discretionary interpretation, including converting cumulative sanctions into alternative ones.

Within the framework of Article 132 paragraph (1), the provision must be understood according to the principles of *lex stricta* and *lex certa*, which require judges to impose sanctions strictly as written, without expanding or narrowing their meaning. This aligns with Barda Nawawi Arief's assertion that "the principles of *lex stricta* and *lex certa* require judges to interpret norms only according to the statutory text, without adding to or subtracting from them" (Fatahilla et al., 2022). Thus, when a sentencing norm clearly mandates cumulative sanctions, the judge's interpretive scope becomes highly limited. Judicial interpretation cannot disregard any mandatory sanction, as such omission constitutes neglect of the norm and potentially undermines legal certainty.

Article 132 paragraph (1) is intrinsically linked to the principal articles it references, such as Article 114 paragraph (1), which stipulates that sentencing for conspiracy must follow the principal offense. Therefore, if Article 114 paragraph (1) mandates cumulative imprisonment and fines, the same cumulative sanctions must also be imposed for conspiracy to commit the offense. The provision grants no discretion for separating or choosing between sanctions. Consequently, sentencing that imposes imprisonment only without a fine is normatively inconsistent with the Narcotics Law (Laia & Panggabean, 2024).

Based on the explanation above, Article 132 paragraph (1) constitutes a comprehensive provision designed to regulate narcotics crimes in an integrated manner. It does not merely establish prohibited conduct but also determines the type and structure of sanctions that must be imposed, thereby providing clear guidance for judges. Proper interpretation of the provision is essential for assessing whether judicial reasoning aligns with the formal legal framework (Tebing Tinggi District Court Decision Number: 174/Pid.Sus/2025/PN Tbt).

Given the normative structure of Article 132 paragraph (1), it is important to examine its application in the case of the defendant Aminsyah Siregar Alias Amin before the Tebing Tinggi District Court, where the Public Prosecutor charged the defendant cumulatively/subsidiarily: Primarily under Article 114 paragraph (1) in conjunction with Article 132 paragraph (1), and subsidiarily under Article 112 paragraph (1) in conjunction with Article 132 paragraph (1) of Law Number 35 of 2009 on Narcotics (Zulfikar, 2023).

In the indictment, the Public Prosecutor stated that the defendant was proven to have violated Article 114 paragraph (1) jo. Article 132 paragraph (1) under the primary charge (Tahir & Baruadi, 2023), which was affirmed by the Panel of Judges based on trial facts showing that (1) the defendant agreed to the invitation of witness Armansyah Alias Arman to collect methamphetamine in exchange for being allowed to use methamphetamine for free, and (2) the defendant knew that the methamphetamine collected was intended for resale. The court further found that the defendant was not new to drug distribution, as shown through social media chats in which he actively offered narcotics to others.

In its ruling, the court found the defendant guilty of "criminal conspiracy to unlawfully sell Schedule I Narcotics" and imposed a sentence of 7 (seven) years' imprisonment, without imposing a fine. The judge justified this by stating: "The sentencing provision in Article 132 paragraph (1) of Law Number 35 of 2009 on Narcotics only accommodates imprisonment, with no mention or regulation concerning fines, whether cumulatively or alternatively." The judge further argued: "If one follows the wording of Article 132 paragraph (1), the only sanction that may be imposed is imprisonment." (Tebing Tinggi District Court Decision Number: 174/Pid.Sus/2025/PN Tbt)

From this reasoning, it is evident that the judge relied purely on grammatical interpretation of Article 132 paragraph (1), which indeed contains the phrase "punishable by imprisonment equal to the provision referred to in those Articles," without explicitly mentioning fines. However, a literal reading alone does not reflect the systematic method required to understand the relationship between the conspiracy provision in Article 132 paragraph (1) and the principal offense here Article 114 paragraph (1). Article 132 paragraph (1) does not independently formulate the types of sanctions but incorporates by reference the sanctions already established in the principal provision. Thus, the phrase "the same imprisonment" refers only to the minimum and maximum imprisonment limits not to the exclusion of fines.

Therefore, the judge's reasoning that Article 132 paragraph (1) "does not regulate fines" and that "only imprisonment may be imposed" constitutes a reduction of the sentencing structure contained in the principal Article 114 paragraph (1). Systematic and historical interpretation reveals that the legislator never intended to exempt conspirators from fines. Throughout the Narcotics Law, fines are inseparable from the cumulative sentencing model chosen to strengthen deterrence (Amrianto, 2023). Thus, when a judge interprets Article 132 paragraph (1) as authorizing imprisonment only, the resulting decision removes the cumulative element mandated under the principal article and disregards the normative relationship between the two provisions. Such interpretation contradicts the principle of legal certainty by producing sentencing outcomes inconsistent with the legislatively prescribed model.

This analysis demonstrates that the judge's reasoning reflects a misunderstanding of the normative relationship between the principal provision and its derivative in this case, Article 132 paragraph (1) especially regarding the imposition of fines. Such reasoning may have broader legal implications, including inconsistent sentencing practices and potential disparity in decisions.

Fundamentally, the Narcotics Law is a repressive regulatory framework designed to strengthen the fight against narcotics trafficking. Accordingly, the legislator deliberately minimizes interpretive flexibility regarding types of sanctions; the cumulative sentencing model is part of the strategy to reinforce deterrence (Arisanti, 2023). Thus, when a judge interprets Article 132 paragraph (1) literally to omit fines, such interpretation contradicts the normative objectives of the lawmaker. Therefore, the judge's reasoning is not only dogmatically inconsistent but also contrary to legislative policy.

Juridical Implications of the Judge's Considerations in the Application of Criminal Penalties in the Decision of the Tebing Tinggi District Court Number 174/Pid.Sus/2025/PN Tbt

The interpretation of criminal provisions in Article 132 paragraph (1) of the Narcotics Law by not imposing a criminal fine is fundamentally not merely a matter of normative reasoning, but a decision that carries consequences for the function of punishment and even influences future criminal policy, as it affects the consistency of the sentencing system established by the legislature. Although Article 132 paragraph (1) does not explicitly contain the phrase "imprisonment and fines," the meaning of "the same penalty" refers to the criminal sanctions attached to the principal offense, namely the articles governing narcotics crimes directly, which generally contain a cumulative sanction pattern consisting of imprisonment and fines. Thus, the judge's interpretation that separates Article 132 paragraph (1) from the sentencing construction of the principal offense potentially obscures the systematic relationship between the provision and its underlying article. Furthermore, it indicates that the judge applied a narrow grammatical interpretation reading the text solely based on its wording without examining the provision systematically, historically, or in relation to the normative purpose of sentencing in the Narcotics Law (United Nations, Single Convention on Narcotic Drugs 1961, as amended by the 1972 Protocol).

The judge's consideration in not imposing a criminal fine in a case of conspiracy to sell narcotics has a direct impact on the effectiveness of sentencing objectives, particularly in the context of narcotics crimes as extraordinary crimes. At this point, international standards also emphasize that states must "impose adequate penalties particularly imprisonment or other forms of deprivation of liberty" and at the same time impose "financial sanctions to eliminate economic gain," meaning that economic pressure through fines is an inseparable instrument in combating narcotics. When criminal fines are removed through a narrow interpretation of Article 132 paragraph (1), the effectiveness of deterrence diminishes, as the public may perceive that the strict sanctions under the law are being reduced. On the other hand, pressure on the defendant also weakens, because a penal system that focuses solely on physical restriction (imprisonment) without economic pressure tends to have less impact on behavior after serving the sentence.

Looking at the broader consequences, the judge's decision to impose only imprisonment also affects the criminal policy embedded in the Narcotics Law, which expressly adopts a cumulative sentencing model for narcotics offenses. Law Number 35 of 2009 clearly stipulates cumulative penalties of imprisonment and fines as an inseparable unit, as part of the legislature's effort to suppress illegal narcotics trafficking through layered principal penalties (Elpina & Purba, 2021). By not applying a fine, the decision not only departs from statutory norms but also reduces the consistency of legal application strictly formulated by the legislature (Elpina & Purba, 2021).

The judge's reasoning, which solely relies on grammatical interpretation of the provisions in Article 114 paragraph (1) in conjunction with Article 132 paragraph (1) of the Narcotics Law, has direct implications for judicial authority in sentencing. By interpreting the phrase "the perpetrator shall be subject to the same imprisonment" textually without considering the normative objectives of narcotics sentencing, the interpretation potentially narrows the scope of meaning that the legislature actually intended. This grammatical interpretation raises the question of whether the judge is simply applying the law as written, or instead implicitly creating a discretionary space that has not been granted by statute. From the perspective of judicial function, this does not merely create juridical inconsistency but also distorts the principle of legality, because the mandatory nature of cumulative sanctions is no longer understood as a normative obligation but as a choice. Therefore, limiting interpretation becomes crucial so that judges do not give new meaning that contradicts legislative intent and the philosophy of narcotics sentencing.

The application of criminal sanctions in narcotics cases requires consistency grounded in the principle of legality and the cumulative sanction structure established by the legislature (Situmorang & Pakpahan, 2023). Therefore, when handling cases involving Article 132 paragraph (1), judges should not only interpret it grammatically but also consider its systematic context and the sentencing objectives for narcotics crimes. This is essential because conspiracy inherently follows the sanction structure of the principal offense, meaning that imprisonment and fines must still be imposed cumulatively. A comprehensive interpretation ensures that judges remain within their authority and do not eliminate sanction provisions that have been expressly formulated by law.

Essentially, judicial interpretation is influenced by how the law is drafted. From the perspective of regulation, steps are needed to clarify the norms to prevent interpretive gaps by judges. Reinforcing that Article 132 paragraph (1) must follow the sanction structure of the principal offense, adding normative explanations in the Narcotics Law, and issuing guidelines by the Supreme Court are measures that can strengthen legal certainty. Through these efforts, the narcotics sentencing system will become more consistent, effective, and aligned with legislative intent as well as Indonesia's international commitments in combating narcotics crime.

CONCLUSION

Based on an analysis of the sentencing structure in Law Number 35 of 2009 concerning Narcotics, it can be concluded that the application of imprisonment and fines is a cumulative unit and must be applied to both perpetrators of the principal crime and perpetrators of criminal conspiracy. The judge's interpretation, based solely on a grammatical approach to Article 132 paragraph (1), without considering the systematic, historical, and objective construction of the sentence, leads to a deviation from the principle of legality and weakens the imperative character of narcotics punishment as an instrument for eradicating extraordinary crimes.

The decision to abolish fines not only contradicts the design of national legislation but also has the potential to reduce the effectiveness of the general and special deterrence intended by the law. Furthermore, this action inappropriately expands the scope of judicial discretion, blurring the boundaries of judicial authority and creating a precedent that could undermine the consistency of judicial practice. Therefore, it is necessary to reaffirm the interpretative standards that judges must use, refine the guidelines for drug sentencing, and clarify norms through regulations or official explanations. Synchronizing the principles of legality, the purpose of punishment, and legal certainty is key to ensuring that punishment in drug cases is not only effective, but also consistent, proportional, and in line with national criminal policy and Indonesia's international commitment to combating illicit drug trafficking.

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