

Criminal Offense of Narcotics Distribution Through Mass Media

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ABSTRACT

*This research is motivated by the convergence of digital technology disruption, which gave birth to the phenomenon of “Uberization of Drug Trafficking,” and the national criminal law reform through the enactment of Law Number 1 of 2023 concerning the Criminal Code (National Criminal Code). This study aims to analyze the dynamics of narcotics trafficking crimes through mass media ranging from the surface web to the darknet within the new legal framework, as well as to identify potential impunity gaps due to the regulatory transition period. The research method used is normative juridical with statutory, conceptual, and comparative approaches, sourced from secondary data. The results indicate that the shift in the penal paradigm of the National Criminal Code from retributive to rehabilitative and restorative provides a sharp differentiation in handling between abusers and syndicates. However, the revocation of certain *lex specialis* provisions in the Narcotics Law potentially creates a legal vacuum (*rechtsvacuum*) regarding electronic transaction offenses if not anticipated with progressive legal interpretation, particularly through the construction of “intermediary tools” and corporate criminal liability. The complexity of *modus operandi* utilizing end-to-end encryption and cryptocurrency demands a reorientation of law enforcement strategies from conventional approaches towards a Smart Power approach that integrates digital forensics, Artificial Intelligence (AI), and solid international cooperation.*

Keywords: Digital Narcotics, National Criminal Code, Narcotics Trafficking

INTRODUCTION

The development of the criminal justice system in Indonesia reflects a paradigmatic shift from a retributive approach emphasizing incarceration toward a reintegrative model oriented to social restoration (Ginting, Siregar, & Fikri, 2025). Within the legal framework, this transformation repositions inmates not merely as objects of punishment, but as subjects of law whose fundamental rights are restricted by statute yet not extinguished (Sihombing, Siregar, & Zarzani, 2025). Accordingly, under the doctrine of the rule of law (*Rechtsstaat*), the provision of adequate healthcare and proper nutrition constitutes an imperative constitutional obligation of the state rather than a form of charitable benevolence (Yuliantini & Mangku, 2023).

Class IIA Pancur Batu Correctional Institution serves as the locus of this study, particularly in the context of its institutional transition under the Ministry of Immigration and Corrections (Antonius, Saragih, & Zarzani, 2024). As a Technical Implementation Unit (UPT) with a high occupancy rate, the Pancur Batu facility is required to harmonize its security and order functions with the obligation to fulfill minimum service standards as mandated by Law Number 22 of 2022 concerning Corrections (Yuliantini & Mangku, 2023). This condition necessitates that prison management maintain a balance between institutional stability and service quality through the optimal utilization of available resources.

The urgency of this discussion is closely linked to the regulatory dynamics of the 2024–2025 period, particularly following the enactment of Minister of Immigration and Corrections Regulation Number 1 of 2025, which revises the technical standards for food service administration. This regulation carries administrative and fiscal implications requiring comprehensive analysis. This article aims to examine the implementation of the policy through a normative-juridical and empirical approach. The scope of analysis includes the harmonization of statutory regulations with fiscal capacity under the 2025 Standard Input Costs (SBM), evaluation of compliance with Standard Operating Procedures (SOPs), and comparison with the international standards set forth in the Nelson Mandela Rules to objectively assess the effectiveness of human rights protection.

METHODS

This study is classified as normative legal research, focusing on the inventory, systematization, and analysis of positive law and prevailing legal principles. The primary object of examination concerns the potential for a legal vacuum (*rechtsvacuum*) and regulatory disharmony arising during the transitional implementation of Law Number 1 of 2023 concerning the Indonesian Criminal Code (National Penal Code), particularly in addressing the evolving dynamics of narcotics offenses conducted through mass media and digital technologies. This research design is selected because the core analysis centers on the examination of norms, legal doctrines, and regulatory frameworks in responding to the shifting landscape of transnational crime, rather than on hypothesis testing through empirical field data.

To comprehensively address the complexity of these issues, this study employs multiple approaches simultaneously. A statutory approach is undertaken through an in-depth examination of Law Number 1 of 2023, Law Number 35 of 2009 on Narcotics, and relevant legislation concerning electronic information and transactions, with the aim of mapping normative consistency and identifying potential conflicts. Concurrently, a conceptual approach is applied to analyze emerging doctrines in criminal law, including the paradigm of restorative justice, corporate criminal liability, and criminological concepts relating to the *modus operandi* of darknet ecosystems and cryptomarkets. Furthermore, a comparative approach is utilized to contrast the former retributive legal regime with the newly rehabilitative-oriented framework, in order to assess its implications for law enforcement strategies.

The legal materials employed in this study derive from secondary data collected through library research. These materials consist of primary legal sources in the form of binding statutory regulations, as well as secondary sources including legal literature, scholarly journal articles, and official reports issued by international institutions such as the International Narcotics Control Board (INCB) and the United Nations Office on Drugs and Crime (UNODC), particularly those relevant to the evolution of cyber-enabled crime. All collected data are subsequently analyzed qualitatively using a descriptive-analytical method. In this regard, no statistical calculations are employed; instead, the analysis relies on systematic, grammatical, and teleological legal interpretation to formulate prescriptive legal arguments and strategic recommendations aimed at preventing impunity gaps during the transitional phase of the national criminal law reform.

RESULTS AND DISCUSSION

RESULT

Sentencing Paradigm and the Legal Construction of Digital Narcotics Crimes under Law Number 1 of 2023

The reform of Indonesian criminal law, as embodied in Law Number 1 of 2023 concerning the National Criminal Code (KUHP Nasional), cannot be regarded merely as a textual revision, but rather as a fundamental transformation in the philosophy of state punishment. To understand the regulatory response to the growing complexity of digital narcotics crimes, the analysis must begin with the foundational architecture of the new Code. The most significant shift lies in the reformulation of the purposes of sentencing as stipulated in Articles 51 and 52. These provisions explicitly affirm that punishment aims to prevent criminal acts through the enforcement of legal norms for the protection of society, to reintegrate offenders through rehabilitation, to resolve conflicts, and to restore social balance and peace. Furthermore, Article 54 provides sentencing guidelines requiring judges to consider the motives, objectives, personal background, and socio-economic circumstances of the offender.

In the context of narcotics offenses, this marks a departure from the purely punitive orientation of Law Number 35 of 2009, which has frequently been criticized for over-criminalizing users, toward a more humane, flexible, and recovery-oriented framework. The new philosophy generates juridical implications in the form of differentiated case handling. For offenders functioning as “digital couriers” or small-scale intermediaries entrapped by syndicates due to economic pressure or dependency, judges now possess broader discretion to impose alternative sanctions such as community service or supervision rather than imprisonment alone. Conversely, for intellectual actors who exploit digital technologies to generate large-scale profits, the objective of societal protection justifies sentence aggravation.

At the structural level, Law Number 1 of 2023 adopts a model of limited-open codification, maintaining the validity of special statutes outside the Code. Article 613 revokes certain penal provisions of Law Number 35 of 2009, including those related to specific narcotics offenses. This development has generated serious academic debate concerning the implications of the removal of Article 114 of the Narcotics Law, long recognized as a “catch-all” provision criminalizing offering, selling, purchasing, or acting as an intermediary in narcotics transactions. A legitimate concern arises that, absent precise substitution within the new Criminal Code or adequate transitional arrangements, a legal vacuum (*rechtsvacuum*) may emerge, potentially undermining enforcement against narcotics transactions particularly those conducted in cyberspace.

A deeper analysis indicates that although legislative intent may have aimed at eliminating redundancy, the specificity of offense elements remains crucial in digital contexts. Digital transactions frequently occur without physical encounters; the acts of “delivering” or “acting as an intermediary” may be executed through the transfer of geolocation data (dead-drop systems) or third-party courier services. If the new Code fails to explicitly encompass such digital interactions, risks of impunity become unavoidable. A comparative examination reveals a fundamental distinction between Law Number 35 of 2009 as a *lex specialis* characterized by ultra-offensive provisions and high mandatory minimum penalties, and the National Criminal Code as

a *lex generalis* emphasizing proportionality and balance. This shift expands judicial discretion, including the possibility of sentencing below previous minimum thresholds in specific circumstances.

From the perspective of offense formulation, the transition from the detailed structure of Article 114 toward more generalized provisions raises potential evidentiary challenges, particularly where electronic transactions are not explicitly articulated in implementing regulations. Nevertheless, the new Code significantly broadens the scope of liability for both individuals and corporations. This expansion facilitates accountability for digital platform providers, including Internet Service Providers (ISPs) and online marketplaces. Philosophically, the movement from a “War on Drugs” paradigm toward restorative and rehabilitative justice signals a health oriented approach for users while maintaining stringent punitive measures for traffickers and syndicate leaders.

Another significant advancement in Law Number 1 of 2023 is the comprehensive regulation of corporate criminal liability under Articles 45 through 50, alongside the expanded definition of perpetration under Article 20. Article 20 provides that any person who commits a criminal act through an instrument or by directing another who lacks criminal responsibility shall be deemed a principal offender. Within digital ecosystems, the phrase “through an instrument” acquires expansive interpretative significance. The term “instrument” is no longer confined to physical objects but may encompass algorithms, automated bots, blockchain-based smart contracts, or encrypted servers. A narcotics trafficker who utilizes a Telegram bot to automate transactions may therefore be prosecuted as a principal perpetrator (*pleger*), notwithstanding the absence of direct physical contact with the illicit goods.

Moreover, corporate liability doctrine empowers the state to prosecute digital business entities. Where a marketplace platform or social media provider knowingly facilitates narcotics transactions such as by refusing to remove reported promotional content or by deriving advertising revenue from dealer accounts—the corporation may be subjected to high-category fines and additional penalties, including revocation of business licenses or suspension of electronic systems. This mechanism constitutes a vital legal instrument to compel private-sector participation in prevention efforts through a strategy of responsabilization.

Crime Typology and the Dynamics of Narcotics Transactions through Electronic Means

The effectiveness of legal enforcement depends upon a nuanced and comprehensive understanding of criminal *modus operandi*. Contemporary digital narcotics trafficking cannot be perceived as a singular phenomenon, but rather as a layered and complex ecosystem encompassing the Surface Web, Deep Web, and Darknet. At the first layer, contrary to the common assumption that illicit transactions occur exclusively in concealed spaces, the Surface Web or publicly accessible internet functions as a primary marketing and social camouflage arena. Mainstream social media platforms such as Instagram, Facebook, TikTok, and X (formerly Twitter) are frequently utilized as large-scale marketing storefronts targeting younger demographics. Perpetrators deploy sophisticated visual marketing strategies, including visual and linguistic steganography, to evade automated content moderation algorithms. Through coded language, altered spellings, emojis, and symbolic imagery, narcotics products are subtly

advertised while maintaining plausible deniability. This stratified typology underscores that digital narcotics crimes operate through adaptive, technology-driven mechanisms requiring correspondingly adaptive legal interpretation and enforcement strategies.

Table 1. Stratification of the Digital Narcotics Market

Market Layer	Characteristics & Modus Operandi	Technology & Anonymity	Transaction Methods	Law Enforcement Challenges
Surface Web (Social Media Platforms)	Open Marketing: Sellers utilize publicly accessible platforms to advertise illicit substances in disguised or coded forms. Direct Contact: Consumers are able to communicate directly with sellers through private messaging features to arrange purchases.	Operates through publicly accessible digital platforms open to broad audiences. Enables interaction among participants, coordination of distribution, and procurement of supply networks.	Influenced by the rapid expansion of e-commerce ecosystems and electronic fund transfers (e-transfers), including digital wallets and online payment gateways.	Law enforcement crackdowns on online markets often produce only short-term effects. Markets demonstrate high adaptability; when one platform is closed, participants rapidly reorganize using alternative communication technologies.
Darknet (Crypto-markets)	Trade Infrastructure: Provides a comprehensive digital infrastructure for narcotics distribution, extending beyond mere advertisement to full marketplace functionality. Retail Expansion: Experiences exponential growth in retail-level sales (with limited exceptions such as heroin and crack cocaine in certain regions).	High Anonymity: Employs anonymizing software (e.g., Tor networks) to conceal user identities and physical locations.	Specifically relies on cryptocurrencies as the primary mode of payment, enhancing cross-border operability and financial obfuscation.	More resilient to disruption compared to physical markets. Requires highly resource-intensive investigative efforts, including cyberforensics and international cooperation. Vendors perceive lower risks of police intervention relative to face-to-face transactions.

Sumber: Sintesis dari Dandurand, Y. (2022). Law enforcement strategies to disrupt illicit markets. Global Initiative Against Transnational Organized Crime & The Eastern and Southern Africa Commission on Drugs.

This modus operandi includes the use of specific emoji symbols as substitute codes, such as maple leaves or tree icons to signify cannabis, snowflakes or diamonds to denote cocaine, and pill icons to represent MDMA. Perpetrators also employ camouflaged hashtags deliberately modified to enable prospective buyers to locate the content without triggering automated platform filters. In addition, a growing phenomenon of influencer marketing has emerged, whereby “micro-influencers” promote the normalization of psychoactive substance use through narratives framed around productivity enhancement or mental health discourse. From a criminal law perspective—particularly under Law Number 1 of 2023 such conduct may fulfill the elements of “encouraging” or “inducing” others to commit a criminal offense, with potential sentence aggravation due to the utilization of widely accessible publication media.

Following initial contact through social media platforms, subsequent communication typically migrates to what may be characterized as a mid-range market facilitated by encrypted instant messaging applications such as WhatsApp, Signal, Wickr, and particularly Telegram.

Telegram has become a preferred platform for narcotics syndicates due to its architectural features that support anonymity and operational scalability. Dealers exploit functionalities such as “People Nearby” to target buyers based on geographic proximity without exchanging phone numbers, and deploy automated bots that present narcotics menus and payment options resembling conventional e-commerce services. Exclusive private groups accessible only via invitation links operate as closed marketplaces for auctions and customer testimonials. This migration to encrypted platforms generates a significant “Going Dark” challenge for law enforcement authorities, as end-to-end encryption (E2EE) prevents third-party interception of communications, including by service providers. In the absence of physical access to suspects’ devices, traditional wiretapping methods become ineffective, thereby necessitating technologically advanced investigative strategies such as device takeover operations or cyber undercover infiltration.

At the deepest layer of this ecosystem are Darknet Markets or Cryptomarkets, accessible exclusively through specialized browsers such as TOR (The Onion Router). These platforms adopt highly sophisticated e-commerce business models incorporating distinctive features. One defining characteristic is the reciprocal reputation and review system between vendors and buyers, paradoxically establishing mechanisms of quality control and trust within an illegal marketplace. Criminological studies indicate that escrow systems administered by marketplace operators provide buyers with a perceived sense of security against fraud or physical violence compared to conventional street-level transactions. Although some vendors include harm-reduction information concerning dosage and substance purity, such practices do not negate the unlawfulness of the underlying conduct. Transactions within this layer typically rely on cryptocurrencies such as Bitcoin or privacy-enhanced tokens like Monero (XMR), often supplemented by “mixers” or “tumblers” designed to obscure financial audit trails. This technological complexity substantially complicates the evidentiary process, particularly in establishing the elements of Money Laundering offenses, thereby posing significant investigative challenges for prosecutorial authorities.

Law Enforcement Against Digital Narcotics Crimes in the Era of Law Number 1 of 2023

The implementation of Law Number 1 of 2023 within the digital ecosystem raises a series of critical juridical issues that require careful anticipation. One of the most pressing concerns is the potential emergence of a legal vacuum resulting from the partial non-incorporation of provisions from the Narcotics Law into the National Criminal Code. Article 114 of Law Number 35 of 2009 has long functioned as a pivotal “catch-all” provision criminalizing a broad range of conduct, including offering, selling, purchasing, receiving, acting as an intermediary, exchanging, or delivering narcotics. Judges and legal practitioners have expressed legitimate concerns that the revocation of this provision, without precise substitution in the new Code or its implementing regulations, may weaken prosecutorial effectiveness.

This concern arises from the more generalized formulation of offenses in the new Criminal Code. If specific elements such as “offering electronically” are not explicitly accommodated, narcotics promotion through social media particularly when not yet materialized into a physical transaction may escape the reach of positive law. Nevertheless, a comprehensive reading of

Article 613 and the general principles contained in Book One of Law Number 1 of 2023 suggests that this potential gap can be mitigated through extensive legal interpretation and the application of the doctrine of living law. Judges retain authority to apply Article 20 on participation through instrumental means, thereby linking digital marketing conduct to attempted offenses or criminal conspiracy. In narcotics cases, such doctrinal construction allows preparatory acts to be punished with gravity comparable to completed offenses.

Another crucial issue concerns sentencing disparities between the Narcotics Law regime which adopts high mandatory minimum penalties aimed at deterrence and the National Criminal Code, which emphasizes flexible sentencing guidelines. Article 53 paragraph (2) of Law Number 1 of 2023 grants judges discretion to prioritize substantive justice over rigid legal certainty, including the possibility of imposing penalties below statutory minimum thresholds in certain circumstances. This philosophical divergence yields contrasting implications. In cases involving “digital couriers,” such as ride-hailing drivers unknowingly delivering narcotics packages, rigid minimum sentencing may undermine substantive justice. The new Code provides a corrective mechanism, enabling judges to evaluate *mens rea*; where knowledge or intent is absent, acquittal or mitigation becomes legally justifiable.

However, this flexibility may also be exploited by high-level darknet operators seeking leniency through sociological arguments despite the extensive harm caused by their activities. Accordingly, technical regulation through a Supreme Court Regulation (PERMA) may be necessary to limit discretion in cases involving organized digital narcotics networks. Although the new Code does not always explicitly mention “social media,” its legal construction accommodates technological aggravation. The use of internet-based dissemination inherently amplifies the societal harm of the offense and may be analogized to crimes committed in public. Likewise, coordinated use of encrypted systems and decentralized networks may satisfy elements of criminal association, justifying sentence enhancement.

Substantive criminal law, however, cannot operate effectively without a robust evidentiary framework. In digital narcotics cases, the evidentiary paradigm has shifted from tangible physical objects to binary data stored in cloud systems or electronic devices. Electronic evidence is recognized within Indonesia’s legal system under the Electronic Information and Transactions Law and Constitutional Court jurisprudence. Nonetheless, the principal challenges concern authentication and attribution. Defendants frequently deny ownership of social media accounts or communication numbers used in transactions, alleging hacking or third-party device control.

Under Law Number 1 of 2023, the standard of culpability (*schuld*) demands rigorous proof. Prosecutors cannot rely solely on screenshots of conversations as standalone evidence. Comprehensive digital forensic processes are required to establish three essential elements: first, attribution of the device to the accused through IMEI identification and usage patterns; second, confirmation that the accused was the active operator at the time of the transaction; and third, assurance of data integrity through an unbroken Chain of Custody from seizure to analysis. The application of international standards, such as ISO/IEC 27037:2012 on guidelines for identification and preservation of digital evidence, becomes indispensable to ensure admissibility before the court.

Further challenges arise from the tension between investigative necessity and privacy protection, particularly in relation to encryption technologies. End-to-end encryption (E2EE) renders interception methods ineffective. Consequently, law enforcement agencies such as BNN and the Indonesian National Police increasingly rely on physical device seizure or advanced forensic extraction tools. Yet such measures provoke human rights concerns. Given the National Criminal Code's emphasis on human rights protection, defendants possess legal grounds to challenge evidence obtained through coercive methods lacking valid judicial authorization.

Moreover, establishing the predicate narcotics offense frequently depends upon financial tracing mechanisms. The use of cryptocurrencies significantly complicates such investigations. Law enforcement agencies must enhance their capabilities in blockchain forensics to trace transactions involving assets such as Bitcoin or USDT. Although public ledgers provide transparency, linking wallet addresses to real-world identities requires close cooperation with cryptocurrency exchanges. Domestic regulations mandating Know Your Customer (KYC) principles constitute a progressive step; nevertheless, enforcement challenges persist due to the frequent use of foreign exchanges or peer-to-peer (P2P) mechanisms operating beyond conventional regulatory oversight.

In response to these complexities, Indonesian law enforcement can no longer rely exclusively on conventional investigative methods. A comprehensive strategic evolution is required, as reflected in BNN's "Smart Power" approach. This strategy integrates cyber patrol operations with Artificial Intelligence (AI) to overcome human limitations in processing large-scale social media data. Machine Learning systems may be trained to perform advanced investigative functions, including Natural Language Processing (NLP) to detect evolving slang and coded terminology; image recognition technologies to identify disguised narcotics packaging; and Social Network Analysis (SNA) to map digital relationships and identify central distributors within online networks. Nevertheless, the deployment of such technologies must be anchored in a clear procedural legal framework to ensure that AI-generated outputs possess evidentiary validity.

Given the inherently borderless nature of cybercrime, international cooperation is indispensable. Law Number 1 of 2023 reinforces active and passive nationality principles; however, effective implementation requires robust legal diplomacy. Indonesia should optimize participation in initiatives such as the INCB's GRIDS Programme for real-time intelligence exchange and expedite Mutual Legal Assistance (MLA) mechanisms to access data from global technology companies. Complementing these measures, a soft-power approach is essential, including digital literacy programs and secure anonymous reporting systems, thereby empowering digital communities to function as active partners in safeguarding cyberspace against narcotics-related crimes.

CONCLUSION

Based on a comprehensive analysis of legal and technological dynamics, it may be concluded that narcotics distribution through mass media represents a fundamental challenge arising from the disparity between the rapid pace of technological innovation and the adaptability of legal instruments. Law Number 1 of 2023 concerning the National Criminal Code introduces a more

humane and flexible sentencing framework; however, its transitional implementation period carries the risk of legal uncertainty that must be carefully mitigated. The shift of transactional loci from physical markets to digital environments has significantly transformed both the risk profile and modus operandi of narcotics crimes, thereby necessitating advanced competencies in digital forensics and big data analytics among law enforcement authorities.

Although academic discourse has raised concerns regarding potential legal vacuums following the partial revocation of provisions under the Narcotics Law, the new legal construction concerning participation through instrumental means, alongside the expanded scope of corporate criminal liability, provides adequate juridical tools when interpreted progressively. Accordingly, the future effectiveness of law enforcement will depend upon three principal pillars: regulatory harmonization, enhancement of human resource capacity, and modernization of technological infrastructure. To prevent impunity gaps prior to the full enforcement of the National Criminal Code in 2026, structured strategic measures are required. First, there is an urgent need for lawmakers to promulgate transitional legal instruments whether in the form of Government Regulations or Adjustment Laws explicitly regulating the handling of digital narcotics offenses. Such regulations must ensure that electronic transaction offenses retain sentencing weight equivalent to that previously established under the *lex specialis* regime. Second, the Supreme Court should issue a Supreme Court Regulation (PERMA) providing specific sentencing guidelines for cyber narcotics cases. This instrument would delineate clearly between substance users warranting rehabilitative intervention and traffickers exploiting digital technologies for commercial gain, who merit aggravated penalties.

Furthermore, institutional capacity building within the National Narcotics Board (BNN) and the Indonesian National Police must be prioritized through investment in advanced digital forensic equipment and the adoption of ISO 27037 standards for digital evidence management, thereby safeguarding evidentiary admissibility before the courts. From a preventive perspective, regulatory revision concerning Electronic System Providers (PSE) is necessary to strengthen the obligation of digital platforms to proactively filter narcotics-related content, accompanied by firm administrative sanctions consistent with corporate liability principles. Finally, given the transnational nature of digital narcotics crimes, cyber diplomacy must be reinforced to accelerate cross-border access to digital evidence and coordinated disruption of global darknet markets. The future success of narcotics eradication efforts will no longer rely solely on conventional enforcement mechanisms, but rather on the integration of advanced forensic technologies with an adaptive and forward-looking legal framework.

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