

ANALISIS YURIDIS PENGATURAN PEREDARAN GELAP NARKOTIKA PASCA PEMBERLAKUAN KUHP NASIONAL

Oleh:
Wisnu Aryadi
NIM. 2205040057

ABSTRAK

Pengaturan peredaran gelap narkoba pasca pemberlakuan Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana (KUHP), khususnya terkait perubahan pengaturan dari Pasal 114 Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika ke Pasal 610 KUHP. Permasalahan penelitian berfokus pada kepastian hukum penggunaan istilah “menyalurkan” yang menggantikan berbagai unsur perbuatan dalam Pasal 114 Undang-Undang Narkotika, seperti menawarkan untuk dijual, menjual, membeli, menerima, menjadi perantara dalam jual beli, menukar, dan menyerahkan narkoba. Penelitian ini menggunakan metode penelitian yuridis-normatif yang bersifat deskriptif dengan pendekatan peraturan perundang-undangan (*statute approach*) dan pendekatan konseptual (*conceptual approach*), serta memanfaatkan bahan hukum primer, sekunder, dan tersier yang dianalisis menggunakan teori kepastian hukum. Hasil penelitian menunjukkan bahwa pengaturan peredaran gelap narkoba dalam KUHP mengalami penyederhanaan rumusan delik melalui penggunaan istilah “menyalurkan”, namun istilah tersebut tidak memiliki batasan yang tegas sehingga berpotensi menimbulkan kekaburan norma dan multitafsir dalam praktik penegakan hukum. Meskipun Mahkamah Agung melalui Surat Edaran Mahkamah Agung Nomor 1 Tahun 2025 memberikan penafsiran luas terhadap istilah tersebut dengan memasukkan berbagai bentuk peredaran gelap narkoba, upaya tersebut masih menimbulkan persoalan yuridis karena SEMA bukan merupakan bagian dari hierarki peraturan perundang-undangan yang berwenang membentuk atau memperluas rumusan tindak pidana. Kondisi ini berpotensi bertentangan dengan asas legalitas dalam pasal 1 ayat (1) KUHP Nasional, khususnya prinsip *lex certa*, yang menghendaki setiap rumusan tindak pidana disusun secara jelas, tegas, dan tidak menimbulkan penafsiran yang beragam. Oleh karena itu, diperlukan pembentukan regulasi yang lebih jelas dan komprehensif guna menjamin kepastian hukum serta menjaga efektivitas pemberantasan peredaran gelap narkoba di Indonesia.

Kata Kunci: Peredaran Gelap Narkoba, KUHP Nasional, Pasal 610, Kepastian Hukum.

**LEGAL ANALYSIS OF THE REGULATION OF ILLEGAL NARCOTICS
CIRCULATION AFTER THE IMPLEMENTATION OF THE NATIONAL
CRIMINAL CODE**

**By:
Wisnu Aryadi
NIM. 2205040057**

ABSTRACT

*This regulation of illegal narcotics circulation after the enactment of Law Number 1 of 2023 on the Criminal Code (KUHP), especially regarding the changes in regulation from Article 114 of Law Number 35 of 2009 on Narcotics to Article 610 of the Criminal Code. The research problem focuses on legal certainty regarding the use of the term "distribute," which replaces various elements of actions in Article 114 of the Narcotics Law, such as offering for sale, selling, buying, receiving, acting as an intermediary in buying and selling, exchanging, and handing over narcotics. This study uses a descriptive juridical-normative research method with a statutory approach and a conceptual approach, as well as utilizing primary, secondary, and tertiary legal materials analyzed using the theory of legal certainty. Research results show that the regulation of illegal drug circulation in the Criminal Code has simplified the formulation of offenses by using the term "distribute," but this term doesn't have clear boundaries, which could lead to ambiguity in the rules and multiple interpretations in law enforcement practice. Although the Supreme Court, through Supreme Court Circular Letter (SEMA) Number 1 of 2025, gave a broad interpretation of the term by including various forms of illegal drug circulation, this effort still raises legal issues because the circular letter is not part of the hierarchy of legislation that has the authority to create or expand the formulation of criminal acts. This situation could potentially conflict with the principle of legality in Article 1 paragraph (1) of the National Criminal Code, especially the *lex certa* principle, which requires every criminal offense to be formulated clearly, firmly, and without leading to multiple interpretations. Therefore, there is a need for the creation of clearer and more comprehensive regulations to ensure legal certainty and maintain the effectiveness of cracking down on the illegal circulation of drugs in Indonesia.*

Keywords: Illicit Narcotics Trafficking, National Criminal Code, Article 610, Legal Certainty, Legal Ambiguity.