



Legal Status And Protection For Online Couriers Delivering Prohibited Goods (Narcotics) Without Their Knowledge

Status Hukum Dan Perlindungan Bagi Kurir Online Yang Mengantarkan Barang Terlarang (Narkotika) Tanpa Sepengetahuan Mereka

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ABSTRAK

Perkembangan pesat platform logistik digital telah secara signifikan mengubah sistem distribusi barang di Indonesia dengan memfasilitasi pengiriman yang lebih cepat melalui jaringan kurir independen yang beroperasi dalam ekonomi platform. Namun, perkembangan teknologi ini juga menciptakan peluang bagi jaringan perdagangan narkoba untuk memanfaatkan sistem pengiriman digital dengan menggunakan kurir yang seringkali tidak mengetahui isi paket yang mereka antar. Studi ini mengkaji status hukum dan tanggung jawab pidana kurir online yang secara tidak sengaja mengantar narkoba dalam sistem hukum Indonesia. Penelitian ini menanggapi tiga isu utama: status hukum kurir online dalam kasus pengiriman narkoba, penerapan prinsip-prinsip hukum pidana seperti kesalahan, *mens rea*, asas praduga tak bersalah, dan proporsionalitas, serta bentuk perlindungan hukum yang diperlukan untuk mencegah kriminalisasi yang tidak adil terhadap kurir. Studi ini menggunakan pendekatan penelitian hukum normatif dengan metode kualitatif, menganalisis peraturan perundang-undangan, doktrin hukum pidana, putusan pengadilan, dan literatur akademik yang relevan. Temuan menunjukkan bahwa hukum pidana Indonesia mensyaratkan adanya perilaku yang melanggar hukum dan niat jahat yang dapat disalahkan sebelum tanggung jawab pidana dapat dikenakan. Ketika kurir tidak memiliki pengetahuan atau niat mengenai narkoba yang terdapat dalam paket yang dikirimkan, unsur kesalahan tidak dapat dibuktikan. Studi ini juga mengidentifikasi celah regulasi dalam undang-undang narkoba yang ada mengenai posisi hukum kurir digital. Oleh karena itu, studi ini mengusulkan rekonstruksi doktrinal dan reformasi regulasi yang mengakui kurir sebagai perantara yang berpotensi tidak bersalah sambil memperkuat akuntabilitas platform dan standar bukti. Reformasi ini bertujuan untuk memastikan perlindungan hukum yang adil bagi kurir sambil mempertahankan penegakan hukum narkoba yang efektif.

ABSTRACT

The rapid expansion of digital logistics platforms has significantly transformed goods distribution systems in Indonesia by enabling faster deliveries through networks of independent couriers operating within the platform economy. However, this technological development also creates opportunities for narcotics trafficking networks to exploit digital delivery systems by using couriers who often have no knowledge of the contents of the packages they transport. This study examines the legal status and criminal liability of online couriers who unknowingly deliver narcotics within the Indonesian legal system. The research addresses three key issues: the legal status of online couriers in narcotics delivery cases, the application of criminal law principles such as fault, *mens rea*, presumption of innocence, and proportionality, and the forms of legal protection required to prevent unjust criminalization of couriers. This study employs normative legal research with a qualitative approach, analyzing legislation, criminal law doctrines, court decisions, and relevant scholarly literature. The findings show that Indonesian criminal law requires the presence of both unlawful conduct and culpable mental intent before criminal liability can be imposed. When couriers lack knowledge or intent regarding narcotics contained in delivered packages, the element of fault cannot be established. The study also identifies a regulatory gap in existing narcotics legislation concerning the legal position of digital couriers. Therefore, this study proposes doctrinal reconstruction and regulatory reforms that recognize couriers as potential innocent intermediaries while strengthening platform accountability and evidentiary standards. These reforms aim to ensure fair legal protection for couriers while maintaining effective narcotics law enforcement.

INTRODUCTION

The digital world is a social, technological and communicative space that is transforming the way people interact, access information and carry out economic and social activities. The digital world serves not only as a medium of communication, but also as a new ecosystem that influences social structures, regulations and patterns of behaviour (Sufa et al., 2025). Technology plays a strategic role in the

development of the business world as it is capable of boosting productivity, operational efficiency, product innovation and an organisation's competitiveness in the global market. Technology serves not only as a tool to support operations, but also as a key driver of business model transformation and modern economic strategies (Judijanto et al., 2023).

A digital platform is a technological infrastructure that facilitates interaction between businesses and consumers via an integrated online system. Digital platforms serve as spaces for communication, marketing and transactions, enabling organisations to build relationships with consumers in a more direct, interactive and sustainable manner (Brumadyadisty et al., 2025). The rapid development of digital logistics platforms has brought fundamental changes to the mechanism of goods distribution in the modern economy. The integration of courier services with ride-hailing applications and various digital platforms has formed a platform-based logistics ecosystem that enables faster delivery processes through a network of independent couriers working within the gig economy framework (Kenney & Zysman, 2020; Veen et al., 2020). This business model promotes increased distribution efficiency and provides greater flexibility in logistics services. However, this transformation also presents new challenges, particularly in terms of monitoring and controlling the flow of goods distribution in digital delivery systems (Chen et al., 2021).

Several studies indicate that platform-based delivery infrastructure also has the potential to be exploited by criminal networks to move illegal goods. This vulnerability arises because digital delivery systems are highly dependent on couriers who often have no knowledge of the contents of the packages they deliver (Leukfeldt & Holt, 2022; United Nations Office on Drugs and Crime, 2023). In such circumstances, digital couriers often act as unknowing intermediaries, i.e., intermediaries who receive delivery orders through an application without obtaining adequate information about the goods being transported.

This situation raises complex legal issues regarding the determination of criminal liability. Modern criminal law doctrine asserts that criminal liability can only be imposed if there is an unlawful act accompanied by an element of fault or a mental state that can be blamed on the perpetrator, known as *mens rea* (Duff, 2020; Simester & Sullivan, 2021). However, in the practice of narcotics law enforcement, law enforcement officials often focus on the aspect of physical control or transportation of prohibited goods. This approach has the potential to ensnare individuals who actually have no intention or awareness of being involved in criminal activities (Hall & Kennedy, 2022).

On the other hand, studies on the platform economy show that regulatory developments often lag behind the acceleration of digital technology innovation. This regulatory lag creates a legal vacuum in regulating the responsibilities of actors involved in the platform ecosystem, including independent couriers who carry out delivery activities through digital applications (Cherry, 2023; De Stefano, 2021). The ambiguity of the regulatory framework ultimately creates legal uncertainty regarding the status and responsibility of couriers in cases of illegal goods distribution.

The emergence of online courier services on digital delivery platforms presents new legal challenges for the criminal justice system. Drug distribution networks are increasingly exploiting courier-based logistics systems to deliver illegal substances while concealing the identities of the main perpetrators. In situations where drugs are found during the delivery process, law enforcement officials often treat couriers as suspects because they physically carry or transport the illegal goods.

This approach to law enforcement raises fundamental doctrinal issues in criminal law. Criminal liability generally requires an unlawful act accompanied by a guilty state of mind. If a courier delivers a package without knowing that it contains narcotics, the element of intent or awareness of the act becomes questionable. The absence of clear regulatory standards regarding the responsibility and duty of care (due diligence) for online couriers creates ambiguity as to whether such individuals should be viewed as perpetrators of criminal acts or as victims of exploitation in the narcotics distribution network.

This doctrinal uncertainty also has an impact on the broader legal ecosystem. Narcotics legislation generally focuses on individuals who intentionally possess, distribute, or facilitate the circulation of narcotics. The existing legal framework does not specifically regulate the position of digital platform couriers who carry out delivery services based on algorithmic commands with limited information about the contents of the packages they carry. As a result, the legal system faces difficulties in distinguishing between perpetrators who are deliberately involved in narcotics distribution and innocent intermediaries acting in good faith. This situation highlights the need for a systematic legal analysis of the criminal liability of online couriers and the development of normative standards that can ensure fairness in narcotics law enforcement. Without such clarification, the criminal justice system risks disregarding fundamental principles such as the presumption of innocence, proportionality, and liability based on fault.

Based on the legal issues identified, this study proposes several normative research questions: What is the legal status of online couriers who deliver narcotics without knowing the contents of the package in the Indonesian legal system? How should the principles of fault, *mens rea*, the presumption of



innocence, and proportionality be applied in determining the criminal liability of couriers who are unaware of the illegal contents of the packages they deliver? What form of legal protection should the state provide to prevent the unjust criminalisation of couriers in the digital logistics ecosystem?

This study aims to provide a comprehensive normative analysis of criminal liability and legal protection for online couriers involved in cases of narcotics delivery without knowing the contents of the packages they carry. The objectives of this study are to analyse the legal status and potential criminal liability of online couriers in cases related to narcotics in Indonesia; to analyse the application of criminal law principles, particularly the mens rea doctrine and the principle of fault, in determining whether couriers can be held criminally liable for transporting narcotics that they are unaware of; and to formulate appropriate preventive and repressive forms of legal protection for couriers acting in good faith within the digital delivery system. To formulate appropriate forms of preventive and repressive legal protection for couriers who act in good faith in the digital delivery system. To compile normative recommendations for future legal reforms (ius constituendum) to prevent the unfair criminalisation of innocent couriers in the digital logistics ecosystem. This study focuses on a normative legal analysis of criminal liability and legal protection for online couriers who, without knowing the contents of the package, deliver narcotics through digital logistics platforms in Indonesia. This study examines the provisions of laws and regulations, criminal law doctrines, and relevant legal principles in determining criminal liability in narcotics delivery cases. The scope of the study is limited to situations where couriers have no knowledge or intention regarding the illegal contents of the packages they deliver. Cases involving deliberate involvement in narcotics distribution networks, conspiracy, or active participation in narcotics distribution are not included in the scope of this study. This study is also limited to the Indonesian national legal system. With these limitations, this study aims to clarify the doctrinal boundaries of criminal liability and formulate a legal protection framework that can prevent the unfair criminalisation of couriers in the context of the development of digital logistics systems.

THEORETICAL BASIS

Theory of Criminal Liability

The theory of criminal liability is a conceptual foundation in the criminal justice systems of various countries because this theory determines the conditions under which a person can be held legally responsible for an unlawful act. This theoretical framework serves to maintain a balance between the interests of protecting society and the principles of justice in the enforcement of criminal law. The criminal justice system requires proof of two key elements before a person can be punished, namely the existence of an unlawful act and the existence of a state of mind that can be blamed on the perpetrator (Child & Hunt, 2022; Hajdin, 2021). In criminal law doctrine, criminal responsibility generally rests on two main elements, namely actus reus and mens rea. Actus reus refers to a voluntary physical act, negligence to act when the law requires certain actions, or certain conditions that are recognised as criminal acts, such as possession of narcotics. Meanwhile, mens rea relates to the mental state of the perpetrator when committing the act, which can include various degrees of fault such as intent, knowledge, recklessness, or negligence. Without both elements being fulfilled, criminal liability cannot be imposed on a person. Reflexive or unintentional acts do not fulfil the actus reus element, while conditions such as mental disorder or immaturity can negate the mens rea element (Child & Hunt, 2022; Hajdin, 2021).

The principle of criminal liability is also based on the principle of individual responsibility, namely that criminal law can only impose sanctions for acts or negligence committed by the individual concerned. This principle rejects the application of vicarious liability, which imposes the fault of one person on another, except in certain circumstances relating to supervisory responsibility (Child & Hunt, 2022; Hajdin, 2021). In addition, criminal law doctrine also recognises the principle of nulla poena sine culpa, which affirms that there can be no punishment without fault. The application of this principle requires the perpetrator to have the ability to make moral choices about their actions. In certain circumstances, the law allows for justifying or exculpatory reasons such as coercion, emergency, or legal justification that can eliminate or reduce criminal liability (Child & Hunt, 2022; Hajdin, 2021).

The concept of causality also plays an important role in determining criminal liability because this concept links the perpetrator's actions to the consequences, particularly in criminal acts that require certain consequences, such as murder. Through the application of these principles, the criminal justice system seeks to ensure that criminal liability is based on the degree of the perpetrator's fault, not solely on the results or consequences that occur (Child & Hunt, 2022; Hajdin, 2021).

Legal Protection Theory (Philipus M. Hadjon)

The Legal Protection Theory developed by Philipus M. Hadjon is one of the fundamental concepts in Indonesian administrative law. This theory emphasises the state's obligation to protect the rights of

citizens from arbitrary actions by those in power. Within the framework of the rule of law, legal protection is an important instrument to ensure that every government action remains within the bounds of the law and respects the dignity and human rights of citizens (Arneta et al., 2025; Gumilang & Kristianto, 2025).

Philipus M. Hadjon defines legal protection as an effort to maintain and protect human dignity, values, and the rights of legal subjects in a country based on the principle of the rule of law. This protection is rooted in positive law that regulates the relationship between the government and society, with the aim of preventing arbitrary actions by state authorities. The implementation of legal protection is realised through binding written regulations that contain mechanisms for sanctioning parties who violate legal provisions. Thus, the law functions not only as an instrument of regulation but also as a means of controlling the use of state power (Arneta et al., 2025; Gumilang & Kristianto, 2025).

Hadjon's concept of legal protection focuses on government actions as the main object of legal supervision. Through this approach, state law based on the values of Pancasila is expected to guarantee the achievement of justice, legal certainty, and benefits for society. Legal protection is not only interpreted as a dispute resolution mechanism, but also as a system that ensures that every government policy and action is carried out in accordance with the principles of the rule of law (Arneta et al., 2025; Gumilang & Kristianto, 2025). In his theoretical framework, Hadjon distinguishes legal protection into two main forms, namely preventive legal protection and repressive legal protection, while several legal studies later added a curative dimension as a complementary form. Preventive legal protection aims to prevent disputes by providing opportunities for the community to express their opinions or objections before a government decision or action causes harm. This mechanism includes public participation, the right to raise objections, and transparent and structured administrative procedures (Arneta et al., 2025; Gumilang & Kristianto, 2025).

Conversely, repressive legal protection functions when a violation of the law has occurred. This form of protection provides a means of restoring rights through various dispute resolution mechanisms, including judicial review of government decisions, the imposition of sanctions on violators of the law, and other administrative judicial mechanisms. In the development of administrative law studies, some literature also recognises a curative dimension that focuses on the restoration or rehabilitation of violated rights (Arneta et al., 2025; Gumilang & Kristianto, 2025). In the context of the Indonesian legal system, Philipus M. Hadjon's theory of legal protection is strongly rooted in the values of Pancasila and the principle of the rule of law, which places the government as the party responsible for ensuring legal certainty and justice for the community. This theory influences various practices of state administrative law enforcement, including in the settlement of disputes in the administrative court and in the protection of community rights in the field of land and legal relations between citizens and the government (Arneta et al., 2025; Gumilang & Kristianto, 2025).

Theory of Legal Interpretation

The theory of legal interpretation provides a conceptual framework for judges and legal scholars to determine the meaning of legislation, constitutions, contracts, and various other legal texts when ambiguity or disputes arise regarding their meaning. This theory serves to maintain a balance between fidelity to the legal text and the broader goal of achieving substantive justice. The development of legal interpretation theory is inseparable from judicial practice and ongoing philosophical debates in legal studies (Krishnakumar, 2024).

In practice, legal interpretation aims to explain what is actually mandated or required by law in a specific case. This process is carried out by authorities with jurisdiction, particularly judicial institutions. Legal interpretation is not only related to efforts to find the existing meaning of the law epistemologically, but in certain conditions it also plays a role in shaping or developing the meaning of the law through constitutive court decisions. Such interpretation can be applied to various types of legal texts with the aim of maintaining consistency in the application of the law while adapting it to the relevant social context. However, the activity of interpretation does not cover all judicial tasks, such as the use of judicial discretion in determining the type or severity of criminal sanctions (Krishnakumar, 2024).

In the development of legal doctrine, there are several main approaches to legal interpretation theory. The textualist approach places the meaning of words in legal texts as the main reference, based on the general meaning understood by society at the time the norm was established. This approach tends to ignore the subjective intentions of the legislators and the values that have developed after the rule was enacted, with the aim of limiting the possibility of judicial activism. The originalism approach has a similar orientation to textualism, but specifically emphasises a historical understanding of the intentions of the legislators or the methods of interpretation that were applicable at the time the norm was established (Krishnakumar, 2024).

In addition, the intentionalism approach attempts to trace the objectives of the legislators through an analysis of legislative history. Meanwhile, the purposivism approach emphasises the objectives and



rationality of a legal rule. This approach allows judges to interpret legal provisions more flexibly if the literal meaning of the text actually hinders the achievement of the intended legal objectives. In modern developments, there has also emerged a dynamic constitutionalism or living constitutionalism approach, which views that the meaning of constitutional norms can evolve in line with changes in social conditions and community values, as seen in the development of interpretations of civil rights in various countries (Krishnakumar, 2024).

Methods of legal interpretation have also developed in various forms. Literal interpretation focuses on the meaning of the language used in the legal text directly. Other methods combine grammatical, logical, historical, and systematic approaches, taking into account the structure of the language, the context of the norm, the background to the formation of the law, and its consistency with the legal system as a whole. However, each approach has its limitations. An overly rigid textual approach may ignore irrational or unfair outcomes, while an approach that overemphasises the purpose of the law has the potential to excessively expand the role of judges. Therefore, in judicial practice, a combinative approach is often used, integrating several methods of interpretation to achieve a balance between legal certainty and justice (Krishnakumar, 2024). In assessing various theories of legal interpretation, legal scholars generally use several main criteria, including democratic legitimacy, compatibility with the principles of the rule of law, effectiveness of application in practice, and the moral basis underlying an interpretative approach. The originalism approach is often considered to provide stability because it adheres to the historical meaning of a norm, while the purposivism approach is considered to be more capable of delivering substantive justice in dealing with complex legal issues (Krishnakumar, 2024).

Theory of Justice

The theory of justice developed by John Rawls in his work *A Theory of Justice*, published in 1971, introduced the concept of distributive justice known as *justice as fairness*. Through a social contract approach, Rawls asserts that justice in society must be built on a balance between freedom and equality. His framework seeks to formulate principles of justice that are rationally acceptable to all members of society as the basis for regulating social structures (Westerstrand, 2024).

Rawls put forward a conceptual construct known as *the original position*, which is a hypothetical situation in which rational individuals determine the basic principles that will govern society. In this condition, each individual is behind a *veil of ignorance*, a state in which they do not know the social position, wealth, talents, race, gender, or social status they will have in society. This ignorance is designed to ensure that the principles chosen are fair and do not favour the interests of any particular group. Through this approach, Rawls rejects the utilitarian view that emphasises achieving "the greatest good s for the greatest number of people," because this approach has the potential to sacrifice the interests of minority groups for the benefit of the majority (Westerstrand, 2024).

In the decision-making process at the original position, rational individuals are assumed to use the *maximin* strategy, which is a strategy that seeks to maximise the minimum conditions that may be experienced. In this way, individuals seek to protect themselves from the worst possible outcomes in the social structure that will be formed. The deliberation process results in two hierarchically structured principles of justice (Westerstrand, 2024). The first principle asserts that every individual has the same right to the broadest possible basic freedoms, as long as those freedoms are consistent with the same freedoms for others. These basic freedoms include freedom of expression, freedom of belief, freedom of association, and political rights in a democratic system. This principle is a priority and cannot be sacrificed for the sake of certain social or economic benefits (Westerstrand, 2024). The second principle relates to the regulation of social and economic inequality in society. Rawls argues that inequality can still be justified as long as it meets two main conditions.

First, the inequality must benefit the least fortunate groups in society, known as *the difference principle*. Second, every position or job in the social structure must be open to all individuals through equal and fair opportunities. The implications of these principles demand social institutions and public policies that are capable of reducing social inequality, such as a progressive taxation system, universal health insurance, and other redistributive policies aimed at improving the welfare of the most vulnerable groups.

Although this theory has been criticised, mainly for not paying enough attention to factors such as recognition of individual achievement or economic incentives, Rawls' thinking continues to have a major influence on liberal political philosophy and modern theories of justice (Westerstrand, 2024).

RESEARCH METHODS

This study uses a normative legal research design with a qualitative approach to examine the legal status and forms of legal protection for online couriers who deliver narcotics without knowing the contents of the package. Normative legal research focuses on the analysis of legal norms, legal principles, and legal doctrines contained in legislation, court decisions, and relevant academic literature (Hutchinson & Duncan, 2022; Smits, 2020). This study applies a literature review approach by conducting a systematic review of various legal sources to understand the doctrinal structure of law and how legal norms are applied in judicial practice. Through this approach, the study examines the interpretations given by the courts and traces the development of legal doctrines relating to criminal liability in specific contexts (Taekema et al., 2021). Normative legal research does not involve human respondents as the main source of data. This research focuses on the analysis of legal texts and various legal documents as objects of study. Therefore, legislation, court decisions, and doctrinal literature are the main sources used in doctrinal legal research (Van Hoecke, 2021). In normative legal studies, researchers use several analytical approaches to understand and evaluate applicable legal norms. These approaches include *the statute approach*, *the conceptual approach*, *the case approach*, and the comparative approach, which allows for comparative analysis between different legal systems (Husa, 2021; Michaels, 2022).

The analysis of legal materials in this study was conducted through legal interpretation and legal reasoning methods. Legal interpretation methods include grammatical, systematic, and teleological interpretations used to examine the meaning of legal norms and the objectives of the regulations (Barak, 2020; Dickson, 2021). In addition, doctrinal legal research also applies deductive reasoning to connect general legal principles with the specific cases being analysed and uses prescriptive analysis to formulate normative recommendations that can support future legal development (Smits, 2020).

RESULT AND DISCUSSION

Legal Status of Online Couriers within the Indonesian Criminal Law Framework

The development of the digital logistics ecosystem has created new legal relationships between digital platforms, independent couriers, and service users. In this system, online couriers act as intermediaries who carry out delivery services based on instructions given through the platform application. However, the operational system often does not provide adequate information about the contents of the packages being delivered, so couriers have no direct knowledge of the goods they are transporting. This situation raises fundamental questions about the legal status of couriers in the context of criminal law, especially when the packages being delivered contain narcotics.

Within the framework of Indonesian criminal law, criminal liability is based on the principle that a person can only be punished if they have committed an unlawful act and there is fault that can be attributed to the perpetrator. This provision is reflected in the basic doctrine of criminal law, which places fault as the main prerequisite for punishment. Therefore, the existence of the element of intent or negligence is an important factor in determining whether a courier can be considered a perpetrator of a narcotics crime. If a courier delivers a package without knowing that it contains narcotics, then the element of fault becomes difficult to prove. In such circumstances, the courier is more accurately positioned as an intermediary who has no intention or awareness of the prohibited act. Thus, the legal status of the courier in such a situation cannot automatically be categorised as a perpetrator of a criminal act, but must be further analysed based on evidence regarding the courier's knowledge and involvement in the activity.

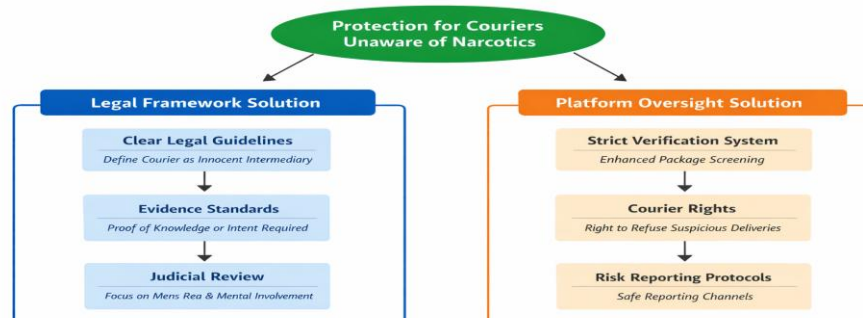


Figure 1. Legal Protection Framework for Online Couriers Unknowingly Delivering Narcotics in Digital Logistics Systems



The first proposed solution emphasizes the improvement of the legal framework and evidentiary standards within criminal law. The state should establish clear legal guidelines that define the position of couriers as intermediaries who operate without knowledge of the contents of packages within digital logistics systems. Such regulations should include explicit standards of proof stipulating that criminal liability may only be imposed when law enforcement authorities demonstrate that the courier possessed knowledge, intent, or active participation in the distribution of narcotics. Authorities can implement these guidelines through statutory revisions or authoritative interpretations of narcotics-related legislation, ensuring that the elements of fault and *mens rea* constitute the primary basis for determining criminal responsibility. Under this framework, law enforcement agencies should not rely solely on the courier's physical possession of prohibited goods but must demonstrate the courier's awareness and mental involvement in the unlawful activity.

The second solution prioritizes the strengthening of monitoring and accountability mechanisms within the digital logistics platform ecosystem. Digital delivery platforms should implement stricter verification procedures and risk control systems governing the shipment of goods. These measures may include mandatory declarations of package contents by senders, the use of technological monitoring tools for shipment tracking, and formal reporting mechanisms that allow couriers to report suspicious packages. Furthermore, couriers should have the explicit right to refuse deliveries that present potential legal risks without facing employment termination or platform sanctions. Strengthening platform accountability while providing operational safeguards for couriers will help reduce the misuse of digital delivery networks by criminal organizations and simultaneously prevent the unjust criminalization of couriers who unknowingly transport illegal goods.

Application of the Fault Principle and Mens Rea in Courier Liability

In modern criminal law doctrine, criminal liability cannot be separated from the principle of fault (*schuld*). This principle asserts that a person can only be punished if there is a connection between the act committed and the perpetrator's state of mind, which indicates intent or negligence. This concept is in line with the doctrine of *mens rea*, which emphasises the importance of mental elements in determining criminal responsibility.

In the context of online couriers who deliver packages without knowing that they contain narcotics, the element of *mens rea* is a determining factor in the analysis of criminal liability. If the courier has no knowledge of the contents of the package and has no intention of distributing narcotics, then the element of fault is not fulfilled. Thus, the application of the principle of fault shows that couriers cannot be held criminally liable as long as there is no evidence to show significant intent or negligence.

This approach emphasises that criminal law should not only focus on the consequences, but also consider the mental state of the perpetrator. Thus, analysis of the element of fault is an important mechanism to ensure that criminal liability is applied fairly and proportionally.



Figure 2. Ensuring Fair Criminal Liability and Legal Protection for Online Couriers in Digital Logistics Systems

The first proposed measure emphasizes the reinforcement of evidentiary standards in criminal law enforcement. Law enforcement authorities should adopt a standard of proof that clearly recognizes *mens rea* as the primary element in determining criminal liability. Investigators and prosecutors must demonstrate that a courier possessed knowledge, intent, or at least significant negligence concerning the

contents of the package being transported. The evidentiary assessment should not rely solely on the courier's physical possession of prohibited goods. Instead, authorities should present supporting evidence that indicates the courier's mental involvement in the unlawful activity, such as communication with the principal offender, suspicious transaction patterns, or other indicators suggesting awareness of illegal conduct. The implementation of rigorous evidentiary standards will reduce the risk of misidentifying suspects and ensure that the criminal justice system imposes liability only on individuals who genuinely possess culpable intent.

The second measure emphasizes the development of legal protection mechanisms for couriers operating within digital logistics ecosystems. Government institutions and platform providers should establish operational procedures that allow couriers to detect and report potentially suspicious packages without exposing themselves to the risk of criminalization. These mechanisms may include structured training programs that help couriers recognize indicators of high-risk shipments, internal reporting channels that enable couriers to communicate concerns to platform administrators, and additional verification procedures for deliveries that raise suspicion. Regulatory frameworks should also provide explicit safeguards to ensure that couriers who act in good faith and lack knowledge of the package contents cannot automatically be classified as perpetrators of criminal offenses. By strengthening these protective mechanisms, the legal system can maintain an appropriate balance between effective narcotics law enforcement and the protection of individuals who lack any intention to participate in criminal activity.

Normative Reconstruction of Courier Liability Doctrine

Based on an analysis of the existing legal framework, it is necessary to reconstruct the doctrine of criminal liability to be more adaptive to developments in the digital logistics system. This reconstruction must emphasise that couriers who have no knowledge of the contents of a package cannot automatically be treated as perpetrators of narcotics crimes.

The innocent intermediary doctrine can serve as a conceptual basis for explaining the position of couriers in such situations. This doctrine places individuals who are unaware of the illegal nature of an act as parties who bear no criminal fault. By adopting this approach, the legal system can provide fairer protection for couriers without reducing the effectiveness of law enforcement against actual narcotics networks. The policy implications of this study indicate the need for regulatory updates governing responsibilities within the digital logistics ecosystem. Such regulations need to set standards for the obligations of digital platforms in monitoring goods delivery activities.

In addition, regulations also need to clearly define the limits of couriers' responsibilities in platform-based delivery systems. This provision is important to provide legal certainty for parties involved in the digital logistics ecosystem. Through clearer regulations, the legal system can strike a balance between efforts to eradicate narcotics and the protection of individuals who are not involved in criminal activities. This study shows that the development of digital technology has created new challenges for the criminal justice system. Therefore, legal reforms are needed that can adapt to the dynamics of the digital logistics ecosystem.

Legal reform needs to include explicit recognition of the position of couriers as intermediaries in the digital logistics system and regulations regarding standards of proof in cases involving the delivery of illegal goods. In addition, regulatory updates also need to strengthen legal protection for couriers acting in good faith. With these legal reforms, Indonesia's legal system is expected to provide fairer protection for online couriers while maintaining the effectiveness of law enforcement against narcotics crimes in the digital age.

Legal reform should introduce explicit provisions within the Narcotics Law that clarify the legal status of couriers who deliver packages without knowledge of their contents. Such provisions could incorporate the concept of an innocent courier or innocent intermediary, referring to individuals who physically transport goods but lack awareness or intent to participate in narcotics distribution. The regulatory framework should clearly state that criminal liability may only arise when law enforcement authorities demonstrate that the courier acted with knowledge, intent, or deliberate participation in a narcotics distribution network. By explicitly emphasizing the element of *mens rea*, the legal system can reduce the risk of criminalizing couriers who perform delivery services without awareness of unlawful activities.

Legal reform should also establish more precise evidentiary standards in cases involving couriers operating within digital logistics systems. These standards should require law enforcement authorities to demonstrate the courier's knowledge or participation through relevant forms of evidence, including communication with principal offenders, suspicious transaction patterns, or documented coordination with senders. Under such a framework, the mere physical possession of a package should not serve as the sole basis for designating an individual as a suspect. A strengthened evidentiary standard will allow



authorities to maintain effective enforcement against narcotics trafficking networks while preserving fairness for individuals who lack culpability.

Reform should further address the responsibility of digital platforms that facilitate logistics services. Government regulation can require platforms to implement enhanced due diligence mechanisms that include mandatory declaration of package contents by senders, identity verification procedures for users, and technological monitoring systems capable of identifying suspicious shipping patterns. Regulatory measures may also oblige platforms to establish formal reporting channels through which couriers can report packages that raise suspicion. By expanding the accountability of digital platforms, the legal system can distribute responsibility more equitably across actors in the logistics chain while strengthening oversight of digital delivery networks.

Legal reform should also introduce operational safeguards that protect couriers who work within platform-based delivery systems. Regulatory measures can grant couriers the right to refuse shipments that appear suspicious without exposing them to platform sanctions or the loss of employment opportunities. In addition, government authorities may require platforms to provide training programs that equip couriers with the knowledge necessary to identify high-risk shipments and follow appropriate security procedures during the delivery process. Such protections can reduce the likelihood that couriers become unintentionally involved in unlawful activities while reinforcing preventive mechanisms against narcotics distribution.

Additional reform may involve the development of judicial guidelines for courts handling cases involving digital couriers. The Supreme Court could issue interpretative guidance to assist judges in evaluating cases where couriers appear to function as intermediaries within digital logistics systems. These guidelines should encourage courts to assess carefully the presence of fault, the courier's level of knowledge, and the nature of the relationship between the courier and the criminal network involved. Through such guidance, courts can produce more consistent decisions that reflect the principles of justice and proportionality in the determination of criminal liability.

CONCLUSION AND SUGGESTION

Conclusion

The expansion of digital logistics systems integrated with application-based platforms has significantly transformed the structure of goods distribution in Indonesia. These systems enhance delivery efficiency and broaden distribution networks through the participation of independent couriers operating within the platform economy. Despite these operational advantages, the same technological infrastructure also creates opportunities for exploitation by criminal organizations. Narcotics trafficking networks increasingly utilize digital delivery services by employing couriers as intermediaries who transport packages without knowledge of their illicit contents.

This development generates complex legal challenges concerning the determination of the legal status and criminal liability of online couriers within the Indonesian legal system. Doctrinal analysis of Indonesian criminal law demonstrates that criminal liability fundamentally requires the presence of an unlawful act accompanied by an element of fault. Criminal law doctrine emphasizes that punishment may only be imposed when a clear relationship exists between the act committed and the mental state of the perpetrator, indicating intent or negligence. In situations where online couriers deliver packages without awareness that they contain narcotics, the element of *mens rea* becomes the central factor in assessing criminal responsibility. When a courier lacks both knowledge of the package contents and the intention to participate in narcotics distribution, the element of fault remains unfulfilled. Under such circumstances, the courier cannot automatically be classified as a perpetrator of a criminal offense.

The findings of this study also indicate that the current legal framework in Indonesia does not explicitly regulate the position of couriers within digital logistics systems. Existing narcotics regulations primarily target individuals who intentionally possess, distribute, or facilitate the circulation of narcotics. As a result, the law provides limited guidance regarding the liability of couriers who function merely as intermediaries within digital delivery networks. This regulatory gap creates legal ambiguity and increases the risk of unjust criminalization of couriers who have no involvement in narcotics trafficking.

Addressing this issue requires a doctrinal reconstruction of criminal liability that responds to the realities of digital logistics systems. Recognizing couriers as innocent intermediaries offers an appropriate conceptual framework for evaluating the criminal responsibility of individuals who unknowingly transport illegal goods.

At the same time, the legal system must maintain a balanced approach that preserves the effectiveness of narcotics law enforcement while protecting individuals who act in good faith. Through clearer doctrinal interpretation and targeted regulatory reform, the Indonesian legal system can strengthen legal certainty, promote justice, and ensure proportional protection for couriers operating within the evolving digital logistics ecosystem.

Suggestion

The government should revise existing regulations to clearly define the legal status of couriers within digital logistics systems, particularly in cases involving the transportation of goods associated with narcotics offenses. Legal reform should emphasize the element of *mens rea* as the primary criterion for establishing criminal liability. This approach would ensure that law enforcement authorities do not rely solely on the courier's physical possession of prohibited goods when determining criminal responsibility, but instead require evidence demonstrating the courier's knowledge of or participation in unlawful activities.

At the same time, regulatory frameworks should strengthen the accountability of digital platforms that operate goods delivery services. Providers of digital logistics services should implement more rigorous due diligence mechanisms, including reliable sender identity verification systems, mandatory declarations of package contents, and technological monitoring tools capable of identifying suspicious shipping patterns. These measures would help prevent the exploitation of digital logistics infrastructures by organized criminal networks.

Government institutions and platform operators should also develop operational protection mechanisms for couriers working within digital delivery systems. Such mechanisms may include training programs that enable couriers to identify high-risk packages, structured procedures for reporting suspicious shipments, and explicit rights that allow couriers to refuse deliveries that may violate the law without facing sanctions or employment consequences from the platform.

Within the judicial sphere, the Supreme Court may consider issuing interpretative guidelines to assist judges in adjudicating cases involving couriers operating in digital logistics systems. These guidelines should emphasize careful evaluation of the element of fault, the courier's level of knowledge, and the nature of the relationship between the courier and the criminal network involved. Such guidance would promote judicial decisions that reflect the principles of justice, proportionality, and legal protection for individuals who act without criminal intent. Through the implementation of these reforms, the Indonesian legal system can maintain an effective strategy for combating narcotics trafficking while simultaneously ensuring adequate legal protection for online couriers who operate within the evolving digital logistics ecosystem.

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