

IMPLEMENTATION OF THE DEATH PENALTY IN NARCOTIC CRIMINAL CASES (CASE STUDY OF DECISION NUMBER 203/PID.SUS/2019/PN.BLS.)

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Received 28 September 2022 • Revised 31 October 2022 • Accepted 28 November 2022

Abstract

The problem of abuse and illicit trafficking of Narcotics in Indonesia is still exacerbated by the process of Law Enforcement, Eradication of distribution and circulation illegal narcotics in this country. Law Number 35 of 2009 concerning Narcotics has clearly and clearly stated that perpetrators of illicit trafficking of Narcotics (narcotics syndicates) are subject to death penalty. Death penalty is one of the oldest types of punishment, as old as mankind. Death penalty is also the most interesting form of punishment studied by experts because it has a high value of contradiction or conflict between those who agree with those who disagree. In the decision being reviewed, namely decision number 203/Pid.Sus/2019/PN.Bls, that by taking into account, Article 114 paragraph (2) Jo. Article 132 paragraph (1) of the Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics and Law Number 8 of 1981 concerning Criminal Procedure Code and other relevant laws and regulations, the Panel of Judges sentenced the Defendant Suci Ramadianto Als Suci Als Iir Bin Subandi with death penalty.

Keywords: Death Penalty, Crime, Narcotics

INTRODUCTION

Death penalty is one of the oldest types of punishment, as old as mankind. Death penalty is also the most interesting form of punishment studied by experts because it has a high value of contradiction or conflict between those who agree with those who disagree.¹ Opinions that agree say that the convict is entitled to the death penalty for several reasons that cause him to be someone who deserves it. Meanwhile, those who disagree with the death penalty are against human rights, namely the right to life, which is a basic right for every individual. If in other countries, death penalty is abolished one by one, then the opposite is happening in Indonesia.²

The aim of imposing and executing the death penalty is always directed at the general public, so that those with the threat of the death penalty will be afraid of committing acts of cruelty that result in them being sentenced to death. In connection with this in ancient times the death penalty was carried out in public.³ Even though it is acknowledged that many object to the death penalty, it is also supported as a *noodrecht* (emergency punishment) against persons who are very dangerous to society, persons who for the benefit of society must be exterminated. It is also specifically considered that in general, indigenous people in Indonesia, as well as East Asians, such as Chinese, Arabs and Indians, are afraid of being killed by force, hence the threat of the death penalty, both from the point of "general prevention" and "prevention". specifically", it is hoped that there will be more deterrent power against committing serious crimes than life imprisonment.⁴

The increase in the frequency of the death penalty in Indonesia is in fact more dominated by the factor of trafficking and trafficking of illegal drugs similar to drugs (narcotics, psychotropics and addictive substances) or narcotics (narcotics and dangerous drugs/substances) rather than by an increase in *violent crime*. In an impartial note, for the period 1998-2008, cases of narcotics and psychotropics were the most common cases that resulted in death sentences, namely 68 cases, followed by 32 cases of murder offenses.⁵

If the application of the death penalty is intended as a written legal provision (*sock therapy law*), in fact more and more people are not afraid to commit crimes, whether corruption, premeditated murder, committing crimes of terrorism, committing gross human rights violations, and the like. According to groups that are pro against the death penalty, "maybe" it will make the perpetrator's crime avenged at least for the victim's family in addition to making other people afraid of committing similar crimes. However, it is clear that the offender will not be able to improve himself and make himself a deterrent to later living as a good person, because *recovery* there is almost no chance for self-On the other hand, even without the death penalty, a criminal can feel retribution for his actions in other forms of punishment, such as life imprisonment with or without deprivation of certain rights or imprisonment in a remote and remote place.⁶

One example of a death penalty sentence is the decision 203/Pid.Sus/2019/PN.Bls. with the defendant Suci Ramadianto Als Suci Als lir Bin Subandi in which the verdict stated that the accused Suci Ramadianto Als Suci Als lir Bin Subandi had been proven legally and convincingly guilty of committing the crime of "Conducting an evil conspiracy to commit a crime of Narcotics without rights or against the law act as an intermediary in the sale and purchase of Narcotics Group I weighing more than 5 (five) grams of methamphetamine and HV5 pills"; sentenced the Holy Defendant Ramadianto Als Suci Als lir Bin Subandi to the death penalty.

The problem is how is the implementation of the death penalty in cases of narcotics crimes (case study of decision number 203/Pid.Sus/ /PN.BLS.)?

The aim is to find out the implementation of the death penalty in narcotics crime cases in the case study of decision number 203/Pid.Sus/2019/PN.BLS.

RESEARCH METHOD

This research method uses normative juridical law research whose data collection is carried out through literature studies, referring to legal norms contained in laws and regulations as well as legal norms that exist in society (Constitutional Court Decisions and Supreme Court Circulars). which is then analyzed qualitatively.

¹ Mahrus Ali, *Dasar-Dasar Hukum Pidana*, (Jakarta: Sinar Grafika, 2012), hal. 195.

² *Ibid.*

³ Wirjono Prodjodikoro, *Asas-asas hukum pidana di Indonesia*, Cetakan keempat, (Bandung, PT Refika Aditama, 2011), hal. 175.

⁴ *Ibid.*, hal. 176-177.

⁵ *Ibid.*, hal. 5-6.

⁶ *Ibid.*, hal. 9.

The nature of this research is analytical descriptive. Related to descriptive, according to Singarimbun, descriptive research is research that seeks to describe a more complex social reality by applying theoretical concepts that have been put forward by scientists.

The data to be obtained will be studied integrally then the results will be analyzed, so that it can provide an in-depth description of what happened, clearly about the problem being studied, explaining that in descriptive research, the data collected is in the form of words, pictures, and not numbers number. In this study, researchers will describe the decision of a criminal case on the death penalty related to the implementation of the death penalty in terms of narcotics crime

RESULTS AND DISCUSSION

Implementation of the Death Penalty in Narcotics Crime Cases (Case Study of Decision Number 203/Pid.Sus/2019/Pn.BIs.)

Death penalty in Indonesia has been going on for a long time, namely since the Indonesian nation was colonized by the Dutch, until now it is still in effect although in the Netherlands the death penalty had been abolished starting in 1987. The Criminal Code (*Wetboek Van Strafrecht*) was passed on January 1, 1981.⁷ According to criminal experts at the time, the preservation of the death penalty because of the special circumstances in Indonesia required that the biggest criminals be able to against the death penalty. With such a large territory and a heterogeneous population, the National Police cannot guarantee security.⁸

Even though the death penalty is still ongoing and has not been abolished in Indonesia, people have different opinions on how to respond to it, as many countries have abolished the death penalty. On the one hand, there are community groups expressing their support that the death penalty is still needed in Indonesia, especially since it is still recognized legally. Meanwhile, on the other hand there are groups of people who want the death penalty to be abolished. They argue that the death penalty provisions in force in Indonesia are inconsistent with the fundamental principles of this country, namely the 1945 Constitution.

Differences of opinion regarding the death penalty also occur among members of the National Human Rights Commission (KOMNASHAM). Their attitude towards the death penalty is also divided into two, there are those who are pro and there are also those who are against. The death penalty in Indonesia must be maintained or abolished. For those who are pro, the heaviest punishment imposed by the Panel of Judges for the convict is still needed, especially for cruel crimes. For those who are against, the death penalty is considered unconstitutional or contrary to the constitution or the 1945 Constitution, especially the right to life for every citizen. Those who agree argue that whether the death penalty is unconstitutional or not has actually been answered in the Constitutional Court's decision on the request for a material review of Law Number 22 of 1997 concerning Narcotics against the 1945 Constitution. The *judicial review* was filed by 4 (four) death row convicts narcotics through their legal counsel regarding the unconstitutionality of the death penalty as stipulated in Law Number 22 of 1997 concerning Narcotics. Based on the decision of the Constitutional Court, it is expressly stated that the death penalty in Law Number 22 of 1997 concerning Narcotics is not against the Constitution. Thus, it can be concluded that by analogy, capital punishment is not an unconstitutional act.⁹

In addition, other supporters of the death penalty also build arguments that legally the death penalty in Indonesia is legal. Among the buildings of this argument is to use a *literal approach*, it can be concluded that the prohibition of the death penalty is not stated anywhere in the 1945 Constitution. Therefore, the sentence "can not be reduced under any circumstances" based on Article 28 paragraph (1), cannot be directly interpreted as a prohibition of the death penalty.¹⁰

The problem of abuse and illicit trafficking of Narcotics in Indonesia is still exacerbated by the Law Enforcement process for eradicating the distribution and illicit circulation of Narcotics in this country. Law Number 35 of 2009 concerning Narcotics has clearly and clearly stated that perpetrators of illicit trafficking of Narcotics (narcotics syndicates) are subject to death penalty. Apart from the legal instruments that already exist and clearly regulate, executors, mechanisms, facilities and examples of

⁷ Agus Purnomo, Hukuman Mati Bagi Tindak Pidana Narkoba di Indonesia: Perspektif Sosiologi Hukum, *De Jure: Jurnal Hukum dan Syari'ah*, Vol. 8, No. 1, 2016, hal. 17.

⁸ Lihat pula Departemen Hukum dan HAM RI, *Jurnal Legislasi Indonesia*. Vol. 4 No. 4, Desember 2007 (Jakarta: Direktorat Jenderal Peraturan Perundang-undangan Departemen Hukum dan HAM, 2007), hal. 44.

⁹ *Ibid.* Thing. 8.

¹⁰ Ali Johardi Wirogioto, Kepastian Hukum Terhadap Pelaksanaan Putusan Pidana Mati Yang Telah Berkekuatan Hukum Tetap Di Indonesia (Suatu Tinjauan terhadap Putusan Pidana Mati Perkara Narkotika pada 2014-2018), *Disertasi*, (Jakarta: Universitas Krisnadwipayana, 2021).

executing death row convicts in narcotics cases already exist and are happening. However, based on the facts, no less than 65 (sixty-five) death row convicts, especially 40 (forty) narcotics convicts have not been executed without any clarity and certainty. Even some of those sentenced to death in the Narcotics case have waited more than ten years and have not yet been executed. Uncertainty about executions is a very interesting phenomenon to be studied in depth, comprehensively and scientifically from the perspective of the laws in force in Indonesia.

In this global era, the views of modern society on Human Rights¹¹ so broad, critical, and universal associated with various aspects of people's lives from simple things to serious issues involving human life. This factor is a very significant influence on legal uncertainty in the execution¹² of death row convicts, especially narcotics cases, even though they have permanent legal force (*Incrasht*). Because this condition causes pros and cons in the community about whether or not execution is necessary. These pros and cons do not only occur in Indonesia, but also become an international polemic. Several countries have abolished death penalty in their national legal system, including those convicted of Narcotics cases even though their countries also experience serious Narcotics problems (several European countries and Australia).

The following is a verdict for a narcotics crime whose defendant was subject to the death penalty.

Decision Number 203/Pid.Sus/2019/ PN.Bls

Name	: Suci Ramadianto Als Suci Als Iir Bin Subandi.
Place of birth	: Bengkalis.
Age/Date of Birth	: 32 years/ 25 May 1987.
Gender	: Male.
Citizenship	: Indonesian.
Place	: Jalan HR Soebrantas RT 01 RW 01 Desa Wonosari Kec. Bengkalis Regency Bengkalis.
Religion	: Islam.
Occupation	: Entrepreneur.
Education	: High School.

Judge's Considerations

Based on the facts at trial, the Panel of Judges also assessed why the witness ROZALI Als JALI contacted Br. AZIS, who is known to be a close person/accomplice of the Defendant, where the witness ROZALI Als JALI asked for help from Mr. AZIS was being chased by Polairud officers where the anonymous pompong ship belonging to the witness ROZALI Als JALI was found in the form of narcotics. That for what Mr. AZIS prepared all documents in the form of an Identity Card and travel expenses for witness ROZALI Als JALI together with Mr. IWAN, Mr. Muhammad Haris and Mr. Surya Darma (the four are in separate case files), although until the end of the proof of this case the witness ROZALI Als JALI could not prove whether it was true that Mr. AZIS exists or not.

From these legal facts the Assembly concluded that what was carried out by the Defendant was closely related to the evidence found in the pompong boat owned by witness ROZALI Als JALI, in which the pompong boat was captained by witness IWAN (in a separate case file) then witnesses Muhammad Haris and witness Surya Darma also knew that there were items in the form of narcotics in the Defendant's pompong, then also ran away with the Defendant, and the witness IWAN (in a separate case file) out of fear.

The considerations mentioned above the Panel of Judges also concluded that the goods in the form of narcotics such as methamphetamine, eskstasy pills and H5 pills that were found in the pompong boat owned by the witness ROZALI Als JALI were orders from the Defendant which at trial was shown evidence of the transfer on the Defendant's mobile phone and also the witness' mobile phone ROZALI Als JALI (in a separate case file) where is the proof of the same transfer, which is why the proof of the transfer is in the mobile phone of witness ROZALI Als JALI and the Defendant if there is no bond or relationship between the Defendant and witness ROZALI Als JALI.

The Panel of Judges is of the opinion that the Defendant is the person who ordered the narcotics in the anonymous pompong boat owned by the witness ROZALI Als JALI, which is supported by evidence of the transfer of money in the amount of Rp. ROZALI Als JALI (in a separate case file) shown at trial.

¹¹ HA Masyhur Effendi, *Dimensi Dinamika Hak Asasi Manusia : Dalam Hukum Nasional Dan Internasional*, (Jakarta : Ghalia Indonesia, 1994), hal. 20.

¹² Satjipto Raharjo, *Penegakkan Hukum: Suatu Tujuan Sosiologis*, (Yogyakarta : Genta Publishing, 2009), hal. 7.

These legal considerations for the element of carrying out acts of offering to sell, selling, buying, intermediary in buying and selling, exchanging, delivering, receiving Narcotics Group I weighing more than 5 (five) grams are declared fulfilled.

Because this element is proven, the second and third elements are also proven. Considering, that because all the elements of Article 114 paragraph (2) in conjunction with Article 132 paragraph (1) of the Republic of Indonesia Law Number 35 of 2009 have been fulfilled, the Defendant must be declared legally and convincingly proven to have committed a crime as charged in the first indictment.

During the trial, the Panel of Judges did not find things that could abolish criminal responsibility, either as reasons for justification or excuses, so the Defendant must be held accountable for his actions; Considering, that the Memorandum of Defense submitted by the Defendant and the Defendant's Legal Counsel Team, in essence, are as follows:

1. All crown witnesses and the Defendant have retracted their statements in the BAP;
2. The Prosecutor had hidden the facts at trial and these facts were only copied and pasted in the BAP where all of the statements had been revoked by the witnesses and the Defendant;
3. That the Minutes of Weighing and Sealing of Evidence of Narcotics PT. Pegadaian (Company) Number: 945/BB/XII/10242/2018 dated December 21 2018 signed by SRI WIDODO UPC Train Manager PT. Pegadaian (Persero) Pekanbaru City Branch and Minutes of Laboratory Analysis of Narcotics Evidence No. LAB: 15436/NNF/2018 dated January 2 2019.

Objections to the Defendant and the Defendant's Legal Advisory Team numbers 1 and 2 The Assembly considered as follows:

Based on the facts at trial against the defense / pledoi The Legal Counsel for the Defendant the Panel considered that during the trial all the statements of the crown witnesses and the Defendant had been revoked at the trial and the Panel of Judges only considered the statements submitted by the Defendant and the crown witnesses before the trial which were adapted to the statements of the witnesses in accordance with the facts presented by the Panel. The judge poured in the above considerations;

Based on the above facts, the Defense Note/Pledoi of the Defendant's Legal Counsel at this point must be set aside.

Whereas against the objections of the Defendant and the Defendant's Legal Counsel Team number 3 the Panel considered as follows: Considering, that against the defense/pledoi of the Legal Counsel the Panel is of the opinion that the trial was not filed and read out the Minutes of Weighing and Sealing of Narcotics Evidence, which was in front of the trial and in the Investigator's, BAP has been fully attached so that the pledoi from the Defendant's Legal Counsel at this point must be set aside.

The description of the legal considerations and all the elements of the Defendant's actions have been proven, so the Defense Note submitted by both the Defendant and the Defendant's Legal Advisory Team was rejected in its entirety. Considering, that because the Defendant is able to take responsibility, he must be found guilty and sentenced to a sentence. Considering, that because the Defendant was detained and the detention of the Defendant was based on sufficient reasons, it is necessary to determine that the Defendant remains in detention.

That the evidence is because it is still being used for evidence in other cases, An. The defendant IWAN IRAWAN Bin RAMLI then the evidence is returned to the Public Prosecutor to be used in proving other cases An. Defendant IWAN IRAWAN Bin RAMLI.

That because the Defendant was found guilty and sentenced and there was no application for waiver of court fees from the Defendant, the Defendant must be burdened with paying the court fees which will be determined in the verdict. Considering, that for the completeness of this decision, everything contained in the minutes of trial shall be deemed to have been considered in this decision. Noting, Article 114 paragraph (2) Jo. Article 132 paragraph (1) of the Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics and Law Number 8 of 1981 concerning Criminal Procedure Code and other relevant laws and regulations.

Tried

1. Declared the Defendant SUCI RAMADIANTO Als SUCI Als IIR Bin SUBANDI has been legally and convincingly proven guilty of committing the crime of "Conducting an evil conspiracy to commit a crime of Narcotics without rights or against the law being an intermediary in the sale and purchase of Narcotics Category I which weighs more than 5 (five) grams of methamphetamine and HV5 pills";
2. Sentenced the defendant SUCI RAMADIANTO Als SUCI Als IIR Bin SUBANDI with death penalty;
3. Stipulates that the Defendant remains in custody;
4. Determine evidence (attached)
5. Charge case fees to the State.

From the decision above, it can be seen that the implementation of death penalty will always cause polemic in society, there are those who are pro with death penalty and there are also those who are against. This polemic will always arise because in a heterogeneous society there will always be different views on capital punishment. Therefore, the death penalty is an integral part of a series of settlements for handling criminal cases which are charged to the prosecutor's office as a state prosecution institution, not carrying out executions has an impact on incomplete handling of cases, which creates legal uncertainty in society.

The protracted implementation of the death penalty, because the death row convict or his legal adviser always has reasons that the convict will submit a PK, but in practice it is only used as a basis for stalling for time to submit a PK, this becomes a legal problem related to the legal objective of achieving the principle of certainty and legal justice

CONCLUSION

The problem of drug abuse and illicit traffic in Indonesia is still exacerbated by the law enforcement process for eradicating the distribution and illicit traffic of narcotics in this country. Law Number 35 of 2009 concerning Narcotics has clearly and clearly stated that perpetrators of illicit trafficking of Narcotics (narcotics syndicates) are subject to death penalty.

The implementation of the death penalty in Indonesia, especially in narcotics cases, is very interesting to study more deeply, because until now the Indonesian national legal system still enforces the death penalty. However, the implementation of the death penalty which has legal force is uncertain due to factors outside the law that influence it. As a result, one of the legal objectives, namely "Legal Certainty" is not achieved, which indirectly affects the other legal objectives, namely "Justice" and "Benefits for as many people as possible".

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