

The Urgency Of Imposing The Death Penalty On Drug Dealers From A Human Rights Perspective

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Abstract

This study uses a normative legal research method. Normative legal research is examining law from an internal perspective with the object of research being legal norms. This study aims to determine the Urgency of Imposing the Death Penalty on Narcotics Dealers Reviewed from a Human Rights Perspective. Discussion Results: The death penalty is one of the main punishments regulated in Article 10 of the Criminal Code. Where, the death penalty is carried out by shooting the perpetrator dead as regulated in the law. The death penalty is a form of accountability for unlawful acts and this punishment is the highest punishment of all existing punishments and is regulated in the Criminal Code. The death penalty for drug dealers is something that must be done and expedited, because the circulation of narcotics is currently increasingly rampant and the impacts it causes greatly affect the lives of the nation's next generation, as well as security and order in the nation and state today and in the future. The consideration to impose the death penalty on drug dealers is more directed towards providing a deterrent effect on the perpetrators as well as law enforcement to create a sense of justice in society. The death penalty imposed under Indonesian law still has pros and cons in some circles of society and legal observers. That the death penalty is a violation of the Human Rights to life, because basically death belongs only to God Almighty. The death penalty when associated with the Human Rights Law, then clearly violates what is formulated in the Human Rights Law Articles 4 and 9. However, in contrast to what is stated in Articles 70 and 73, that there are restrictions set by law as long as the freedom to live does not violate the provisions set by law, such as violating public order, morality, morals, or the interests of the nation. While the criminal acts committed by drug dealers have clearly violated the provisions in question, the death penalty is actually a punishment that clearly does not violate the Human Rights Law.

Keywords: *Urgency, Death Penalty, Perpetrators, Dealers, Narcotics, Human Rights;*

INTRODUCTION

(adar BakhshBaloch, 2017)The rise abuse narcotics moment this , add Long line of cases arrest and detention perpetrator circulation narcotics and drugs prohibited in a number of areas in Indonesia. The modus operandi different , more and more organized , so that its existence seldom sniffed out by the community and law enforcement law . (Anjasmoro, 2023)Only the amount small distributor narcotics that can revealed and the perpetrator arrested , namely levels courier . However , the dealer or big boss (in terms in the field), rarely revealed . This is as stated in Constitution Number 35 of 2009 concerning Narcotics , that act criminal Narcotics has nature transnational carried out with using high modus operandi , technology sophisticated , supported by network extensive organization , and has Lots causing casualties , especially among generation young very dangerous nation life society , nation , and state so Constitution Number 22 of 1997 concerning Narcotics Already No in accordance Again with development developing situations and conditions For to overcome and eradicate act criminal the .

Based on Article 1 number 20 is formulated that :(AYU EKANANDA, 2022) " Crime Organized is crimes committed by a a structured group consisting of over 3 (three) people or more that has been There is For a time certain and act together with objective do a act criminal Narcotics ." So, the crime the so - called narcotics as organized is premeditated crime in a way structured by group in amount more from 3 people with same goal For a time certain .

Not yet released from memory We will the viral case is drug dealer arrest under the name of Freddy Budiman, he was sentenced to death for importing 1.4 million ecstasy pills from China in 2012 and executed in 2016 for the drug case (Dan & Elektronik, 2023). As for historical journey Freddy Budiman became one of the biggest drug dealers in Indonesia with an international network, namely: Freddy was first arrested for a drug case in March 2009. The police searched Freddy's residence in Cengkareng, West Jakarta, and found 500 grams of crystal methamphetamine. He was then sentenced to 3 years and 4 months in prison. After his release, Freddy faced the authorities again in 2011. The police found evidence in the form of 300 grams of heroin, 27 grams of crystal methamphetamine, and 450 grams of ecstasy-making materials. (ICJR, 2017) The 2011 case also involved members of the Indonesian National Police (Polri), namely Briпка BA, Kompol WS, AKP M, and AKM AM. For his actions, Freddy was sentenced to 9 years in prison and had to languish in Cipinang Prison. However, iron bars were apparently unable to stop Freddy Budiman's behavior. Not only that, it turns out that from inside Cipinang Prison, Freddy was proven to have arranged the smuggling of 1,412,476 ecstasy pills from China in May 2012. (JASMINE, 2014) Therefore, Freddy was sentenced to death by the Panel of Judges at the West Jakarta District Court on July 15, 2013. Freddy Budiman was executed on July 29, 2016 at Lapangan Tunggal Panaluan, Nusakambangan, Cilacap, Central Java. His execution was carried out by firing squad. He was the first death row inmate to be executed besides 13 other death row inmates, after the Judicial Review (PK) application was rejected by the Supreme Court. After being executed, Freddy's body was taken to Surabaya to be buried. Freddy was executed by firing squad at the Nusakambangan Penitentiary in Cilacap, Central Java.

(Kepada et al., 2024) The case of Freddy Budiman, it turns out, is not just 1 case related to drugs, but after that there were big cases with a fairly fantastic amount, namely the case of Inspector General of Police Teddy Minahasa related to drug trafficking, but for this case it is slightly different where the perpetrator is an officer who was not sentenced to death, because there has been no history found that police officers involved in drugs were sentenced to death in drug abuse cases. In fact, if referring to the laws and regulations, Inspector General of Police Teddy Minahasa can be sentenced to death based on Article 114 Paragraph 2, subsidiary Article 112 Paragraph 2, in conjunction with Article 132 Paragraph 1, in conjunction with Article 55 of Law Number 35 of 2009 concerning Narcotics.

(Laman et al., 2022) Article 1 number 1 as in Chapter I general provisions states that: "Narcotics is substance or drugs derived from from plant or No plants , good synthetic and semi-synthetic , which can cause decline or change consciousness , loss of feeling, reduced until relieve pain , and can cause dependency , which is distinguished to in groups as attached in Constitution This ." Next , number 2 is formulated that : " Precursor Narcotics is substance or material beginner or material chemicals that can used in making Differentiated narcotics in table as attached in Constitution This ."

The implementation of the death penalty for drug abusers is one of the urgent forms to be carried out in law enforcement in Indonesia. Maulina Daulay (2018) in the Journal of Hikmah, Faculty of Da'wah and Communication Sciences, IAIN Padang Sidempuan, said that urgency comes from the Latin word 'urgere', which is (a verb) which means to push. In the English version it is called 'urgent' (adjective) and in the Indonesian version it becomes "urgensi" (noun). From this understanding, urgency refers to something that pushes us or requires us to complete something. Thus, it assumes that there is a problem that must be resolved immediately (Laman & Lubis, 2023). Urgency, which is the basic word of 'urgen', gets the suffix 'i' which means something that is part of or plays a main role or a very important element.

The Big Indonesian Dictionary (KBBI) states that urgency is a pressing necessity or something that is very important. So the conclusion that the author can give is that the implementation of the death penalty system is one form that is very important / urgent to be

carried out, related to the circulation of narcotics which is increasingly rampant in Indonesia. This will certainly have an impact on the next generation of the nation who are predicted to be clean and not contaminated by prohibited substances, one of which is narcotics. However, on the other hand, there are differences of opinion regarding the implementation of the death penalty for drug dealers today. That some agree with the implementation of the death penalty system, but some reject it because the death penalty is a violation of Human Rights, that every human being has the right to live and be free.

(Sebagai et al., 2021)Based on the description above, which is the background of the author in raising the title of The Urgency of Imposing the Death Penalty on Narcotics Dealers Reviewed from the Perspective of Human Rights. Based on this background, the author formulates the problem of how to analyze the Urgency of Imposing the Death Penalty on Narcotics Dealers Reviewed from the Perspective of Human Rights.

RESEARCH METHODS

Study This use method study law normative . Research law normative that is researching law from internal perspective with object his research is a legal norm . In other words, research the law that lays down law as A building norm system . The norm system in question is about principles , norms, rules from regulation legislation , decision court , agreement as well as doctrine (teaching). Study This use Approach legislation and approaches in a way conceptual . Approach legislation used For get description about The Urgency of Imposing the Death Penalty on Drug Dealers Reviewed from a Human Rights Perspective. This research is a descriptive analytical study. The determination of the descriptive type is based on the argument that this study describes a number of variables related to the problems and units studied.

RESULT AND DISCUSSION

Urgency of Imposing the Death Penalty on Drug Dealers

Throughout 2024, the National Police managed to resolve 36,174 drug cases out of a total of 42,824 cases that had been disclosed, and from all of these cases, the National Police managed to confiscate evidence of various types of narcotics ready for distribution with an estimated value of IDR 8.6 trillion. "It is estimated that 40.4 million people were saved from drug abuse throughout 2024.

(Sembel, 2020)From the description above, drug abuse and criminal acts have reached a dangerous level, because drug abuse and criminal acts, in addition to damaging physical and mental health, also affect the social life of society, and ultimately will disrupt the stability of national security and order as well as the foundations of national and state life in the context of moving towards a just and prosperous society as aspired to in the Preamble to the 1945 Constitution.

Narcotics crimes explicitly have a huge impact on social, economic, community life, and even affect national security and order, so that this is a threat to the life of the nation and state, if not followed up. (Totomutu et al., 2021)Thus, narcotics can hinder national development in material-spiritual aspects. The dangers of narcotics use have a huge impact on the country, if there is large-scale narcotics use in society, then the Indonesian nation will become a sick nation, if this happens the country will be fragile from within because national resilience is declining.

Narcotics crimes are crimes as regulated in Chapter XV Articles 111 to 148 of Law 35 of 2009 concerning Narcotics. Although it is not expressly stated in the Narcotics Law that the

crimes regulated therein are crimes, there is no doubt that all crimes in the law are crimes. Acts prohibited in the law are: (a) planting, maintaining, possessing, storing, controlling, or providing; (b) possessing, storing, controlling, or providing narcotics; (c) producing, importing, exporting, or distributing narcotics; (d) offering for sale, selling, buying, receiving, acting as an intermediary in buying and selling, exchanging, or handing over narcotics; (e) carrying, sending, transporting, or transiting narcotics.

Criminal threats for narcotics dealers other than imprisonment, namely the threat of the death penalty which is a *social defense* (Wahyudi, 2021). According to Hartawi AM, the death penalty is a social defense tool to prevent the general public from disasters and dangers or threats of great danger that may occur and that will befall the community that has or causes misery and disrupts community, religious, and state life.

The death penalty is one of the main punishments regulated in Article 10 of the Criminal Code. Where, the death penalty is carried out by shooting the perpetrator dead as regulated in the law. The death penalty is a form of accountability for unlawful acts and this punishment is the highest punishment of all existing punishments and is regulated in the Criminal Code. Furthermore, it is explained in Article 11 of the Criminal Code that the death penalty is carried out by the executioner at the hangman's place by tying a rope tied to the gallows around the convict's neck and then dropping the board where the convict is standing. However, the procedure for the death penalty was later changed to be carried out by a firing squad. Regarding the technical provisions for the execution of the death penalty, it is regulated in the Regulation of the Chief of Police Number 12 of 2010 concerning the Procedure for the Implementation of the Death Penalty. Article 3 number 3 states that the death penalty is one of the main punishments imposed by a judge on a convict who has obtained permanent legal force.

The death penalty is one of the convict's responsibilities due to the existence of a criminal act that legally and convincingly requires punishment and has been decided by a judge in a criminal trial in accordance with the act and the criminal threat that has been determined by the Criminal Code. In the Criminal Code there are no provisions regarding the meaning of the ability to be responsible. However, in the formulation of Article 44 it reads: "Whoever commits an act that cannot be accounted for to him, because his soul is defective in its growth or a soul that is disturbed by illness". Thus, Moeljatno concluded that for the ability to be responsible there must be: (1) The ability to distinguish between good and bad actions; in accordance with the law and those that are against the law; (2) The ability to determine his will according to the awareness of the good and bad of the act.

The death penalty for drug dealers is something that must be done and expedited, because the circulation of narcotics is currently increasingly rampant and the impacts caused greatly affect the lives of the next generation of the nation, as well as security and order in the nation and state today and in the future. The death penalty as a criminal responsibility for drug dealers, considering the very large negative impact of the crime, the death penalty is considered a reward for the criminal acts committed. The consideration to impose the death penalty is more directed at providing a deterrent effect on drug dealers as well as law enforcement to create a sense of justice in society.

The Death Penalty from a Human Rights Perspective.

The death penalty imposed on Indonesian law still has pros and cons in some circles of society and legal observers. That the death penalty is a violation of the Human Rights to life, because basically death belongs only to God Almighty. So, human life and death are the rights of God as the creator of living things. The concept of the death penalty is often described as something cruel, inhumane, and sadistic. The death penalty is also described as a denial of the right to life of humans. However, in reality the death penalty still needs to be maintained considering the negative impacts caused by the circulation of narcotics which can damage the

order of society, damage the order of the younger generation, and weaken the joints of community and state life.

Definition of Human Rights according to Law No. 39 of 1999 concerning Human Rights is a set of rights inherent in the nature of every human being who is a creature of God Almighty. Rights are His gifts that must be respected, upheld, and protected by the State, law, government, and every person for the honor and protection of human dignity.

So the conclusion of the death penalty when linked to the Human Rights Law, it is clear that by punishing someone by taking away their right to life, which is known to be a gift from God that must be respected and upheld by the state, law and government, even to maintain all their dignity, honor and respect, is something that is contradictory and seriously violates what is formulated in the Human Rights Law.

Law Number 39 of 1999 concerning Human Rights, regulates the right to life into 2 articles, namely Article 4 and Article 9. Article 4 formulates: "The right to life, the right not to be tortured, the right to personal freedom, thought and conscience, the right to religion, the right not to be enslaved, the right to be recognized as a person and equality before the law, and the right not to be prosecuted on the basis of retroactive law are human rights that cannot be reduced under any circumstances and by anyone." Furthermore, Article 9 formulates: "Everyone has the right to live, maintain life, and improve their standard of living." If analyzed, the words of Article 4 and Article 9 of the Law on Human Rights mean that the right to life is an absolute right obtained by humans without being reduced for any reason. In Article 9, it is further interpreted as a person's right to live and maintain their life and improve their standard of living. So that everyone is declared to have the right to life and life as mandated by the Law.

On the other hand, the right to life formulated in Articles 4 and 9 is inversely proportional to, (still in the Human Rights Law), namely Article 70 and Article 73. Article 70 states: " In carrying out their rights and freedoms , everyone is obliged to bow down to restrictions established by law with Meaning For ensure confession as well as respect on the rights and freedoms of others and to fulfil fair demands in accordance with considerations of morality, security and order general in a public " Democratic ." Furthermore, Article 73 formulates : "Article 73 Rights and freedoms regulated by in Constitution This only can limited by and based on law , solely For ensure recognition and respect to right basic man as well as freedom other people's basics , morality , order general , and interests " So , articles 70 and 73 in the Human Rights Law are direct become argument determinant what is formulated in Articles 4 and 9. If connected with criminal death imposed for distributor narcotics Actually matter the is not violating human rights human , remembering in Articles 70 and 73 mention right freedom the There is restrictions established by law throughout freedom life That No violate the provisions set out Laws , such as violate order general , morality , morals, and interest nation . Where the action crimes committed by dealers narcotics clear has violate the provisions in question said , then actually punishment criminal dead is clear punishment No violating the provisions of the Human Rights Law.

CONCLUSION

The death penalty is one of the main punishments regulated in Article 10 of the Criminal Code. Where, the death penalty is carried out by shooting the perpetrator dead as regulated in the law. The death penalty is a form of accountability for unlawful acts and this punishment is the highest punishment of all existing punishments and is regulated in the Criminal Code. The death penalty for drug dealers is something that must be done and expedited, because the circulation of narcotics is currently increasingly rampant and the impacts caused greatly

affect the lives of the nation's next generation, as well as security and order in the nation and state today and in the future. Considerations for imposing the death penalty on drug dealers are more directed at providing a deterrent effect on the perpetrators as well as law enforcement to create a sense of justice in society. The death penalty imposed on Indonesian law still has pros and cons in some circles of society and legal observers. That the death penalty is a violation of Human Rights to life, because basically death belongs only to God Almighty. The death penalty, if linked to the Human Rights Law, clearly violates what is formulated in Articles 4 and 9 of the Human Rights Law. However, this is in contrast to what is stated in Articles 70 and 73, namely that there is... restrictions established by law throughout freedom life That No violate the provisions set out Laws , such as violate order general , morality , morals, and interest nation Whereas act crimes committed by dealers narcotics clear has violate the provisions in question said , then Actually punishment criminal dead is clear punishment No violating the Human Rights Act

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