



Rehabilitation And Execution Of The Death Penalty In Narcotics Offenses

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ARTICLE INFO

Keywords:

Execution, Drug, Narcotics

Date received : 16 Mei 2022

Revision date : 21 Mei 2022

Date received : 28 Mei 2022

ABSTRACT

Drug abuse, namely drugs, is a threat to the sovereignty of the nation and the state of drug eradication requires the role of all parties to narrow the movement of drug dealers who are still trying to market these illegal goods in indonesia. The regulation on narcotics crime and death penalty is very important in regulating the law for perpetrators of narcotics crime for the benefit of the sovereignty of the nation and state. In Indonesia today, the imposition of criminal sanctions in the form of capital punishment by a judge for perpetrators of narcotics is one of the policies adopted in Law No. 35 of 2009 on narcotics and cannot be separated from the criminal law norms adopted by criminal law so far, for example in Article 10 of the Criminal Code. Another thing in other parts of the world there is a significant development of narcotics users by taking depenalization actions against users aimed at replacing prison sanctions which are sometimes applied other criminal sanctions such as Social Work sanctions. The research method used is empirical juridical meaning is to identify and conceptualize the law as a real and functional social institution in a patterned life system. Meaning is to identify and conceptualize the law as a real and functional social institution in a patterned living system.

INTRODUCTION

Drugs have become a threat to the sovereignty of the nation and the state eradication of drugs requires the role of all parties to narrow the movement of drug dealers who are still trying to market the illicit goods in indonesia. The regulation on narcotics crime and death penalty is very important in regulating the law for perpetrators of narcotics crime for the benefit of the sovereignty of the nation and state. The things that are regulated in the regulation on narcotics crimes include the death penalty, life imprisonment, clear legislation containing stricter legal sanctions are believed to narrow the space for drug trafficking, especially

based on data from the National Narcotics Agency, currently the Indonesian people who are in the phase of drug dependence have almost reached six million people this figure does not include double users, both dealers and people who are still trying. With that figure, the level of narcotics use in indonesia is the largest at the Asian level. Indonesia is already considered a drug emergency, the execution process of the death penalty does not give the effect of trepidation against the dealers or drug smuggling. This is evidenced by the discovery of convicts still sentenced to death who carry out Drug Control from behind a closed cell. In other words, they still dare to control the circulation of drugs from prison, prison as if only a new

convenient post for the drug network sehingga no need to be alarmed chased or shot dead law enforcement officers one example of death row inmate Freddy Budiman as evidence of the fact that there is still the power to control drugs from behind bars, although sentenced to death but not yet on the run.

The role of law enforcement for a country is their involvement in a planning, system, process, of the objectives to be achieved by the government or state. A convict is a person convicted on the basis of a court that acquires a fixed law. The government is an organization that has the authority to make and apply laws and regulations in certain areas. And all of that is already intrinsic in a country in order to create security and peace in maintaining the community in it.

The state is an organization or the highest body that has the authority to regulate matters related to the interests of the wider community and has an obligation to prosper, protect and educate the nation. Law is a very important and fundamental thing regulated in the regulations of a country because it maintains the viability of the country itself. In the punishment itself is divided into both administrative sanctions, maximum and minimum imprisonment and life imprisonment and death penalty, depending on the actions taken by the perpetrator of the crime itself. It is both light and heavy hukum that already has a permanent law. The death penalty for pindana acts that are classified as extraordinary such as narcotics, terrorism, premeditated murder and others whose crimes are extraordinary.

According to the Narcotics Act No. 35 of 2009 : Narcotics are substances or drugs derived from plants, both synthetic and semi-synthetic that can cause a decrease or change in consciousness, loss of pain and can cause dependence. The narcotics user is a drug abuser who has experienced dependence on one or more narcotics, psychotropic, and other addictive substances (drugs), both psychically severe and mild. withdrawal symptoms depend on the type of drug, the dose used, and the length of use. In Indonesia today, the imposition of criminal sanctions in the form of capital punishment by a judge for perpetrators of narcotics is one of the policies adopted in the Narcotics Act and cannot be separated from the criminal law norms adopted by criminal law so far, for example in Article 10 of the Criminal Code. Another thing in other parts of the world there is a significant development of narcotics users by taking depenalization actions against users aimed at replacing prison sanctions which are

sometimes applied other criminal sanctions such as Social Work sanctions.

The punishment for narcotics cases is punishable by High Criminal. For example, the Narcotics Act regulates everyone who without rights or against the law to plant, maintain, possess, store, control, or provide class one narcotics is threatened with imprisonment for a maximum of 20 years and even the death penalty. While for Class II and III threatened with imprisonment for a maximum of 10 years. " in principle, imprisonment is closely related to the deprivation of Liberty which can give the stamp of evil and can lower the degree and dignity of human beings if someone is sentenced to imprisonment.

Narcotics is a serious threat to the continuity of human development, especially in Indonesia. The threat of punishment for narcotics dealers is very heavy in Indonesia, but why the narcotics dealers never feel afraid and even many foreign nationals have been arrested by the police for daring to bring narcotics to Indonesia. While the punishment for narcotics dealers in Indonesia is at least 4 years and the maximum death penalty, Indonesian national law applies the death penalty and it is regulated in Article 10 of the Criminal Code.

Enactment Of Law No. 35 of 2009 on narcotics, psychotropic types of Group I and Group II as stated in the annex to law No. 5 of 1997 on psychotropics has been transferred into Narcotics Group I in law No. 35 of 2009 and annexes on psychotropic types of Group I and Group II in law No. 5 of 1997 on psychotropics was revoked and declared invalid. Then no less interesting is the discovery of several formulations of articles that indirectly try to put the status of victims to perpetrators of certain narcotics crimes such as drug addicts. Narcotics users who are classified as Class I narcotics abusers basically qualify as perpetrators of narcotics crimes, but in certain circumstances narcotics addicts will be more domiciled towards the victim.

In the regulation of the Government of Indonesia issued Law No. 35 of 2009 on narcotics has encouraged the government to treat specifically for narcotics addicts in order to obtain medical and social rehabilitation sanctions as contained in Article 54 of the Narcotics Act, that drug addicts are required to undergo medical rehabilitation and social rehabilitation. With another meaning addicts are not placed in correctional institutions or prison sanctions. Therefore, the availability of medical and social rehabilitation facilities is a must from the government for victims of drug addicts.

METHOD

This type of research is an empirical juridical legal research (empirical legal research), to identify and analyze legal factors that are obstacles to the legal actions of an administrative law, as well as to review the concepts that cause it. In this study the approach used is empirical juridical approach. Empirical jurisprudence means identifying and conceptualizing law as a real and functional social institution in a patterned life system.

Juridical approach in this study is the approach in terms of legislation and legal norms in accordance with existing problems, while the empirical approach is to emphasize research aimed at obtaining empirical knowledge by plunging directly from the object.

RESULTS AND DISCUSSION

A. Death penalty and rehab

The death penalty is the most severe criminal, known in the criminal law system either in Indonesia or other countries in the world. The death penalty has become a matter of pros and cons in accordance with the arguments of each party. Until now the problem of the death penalty is a problem that has not been solved and become a hot topic to talk about.

Rasyid Khairani said: "Do not let the court mistakenly determine the criminal, then he tried to fight for the abolition of the death penalty in criminal law". J.E. Sahetapy says: people are beginning to realize the ugliness of the death penalty. The movement against criminals spread to various countries. In 1847 in the state of Michigan the death penalty was abolished. Then in Venezuela in 1849 and in the Netherlands in 1870".

While the pros against the death penalty also gave their arguments based on the acceptance of the theory of retribution in terms of sentencing. Wirjono Prodjodikoro, in his book Principles of Criminal Law in Indonesia stated that the purpose of imposing and carrying out the death penalty is always directed to the public so that those with the threat of the death penalty, will be afraid of committing cruel acts that will result in them being sentenced to death. It is in connection with this that in ancient times the death penalty was carried out in public face. Criminal law in Indonesia merupakan legacy of the Dutch colonial government at the time of the establishment of the Criminal Code in 1918 deviated from his own country, and maintain the death penalty in Indonesia for serious crimes. Objection to the death penalty verdict by the general public against death row inmates, which cannot be corrected if in the future there are errors or

information that turns out to be incorrect or erroneous.

The argument for justifying the death penalty is as follows : more effective than any other kind of punishment, because it has a deterring effect, in the crime of murder, more sparing than any other punishment, in order to prevent public acts of mobbing against the criminal, the only punishment that can be determined with certainty , because the murderer sentenced to life, often gets a pardon.

Even in narcotics crime as in Law No. 35 of 2009 in Article 113, 114, 116, 118, 119, 121, 133 threatened with death. The time of execution of death row convicts drug cases in accordance with law No. 35 of 2009 on narcotics article 113, 114, 116, 118, 119, 121, 133. In Indonesia, the procedure for the implementation of the death penalty, regulated in the Criminal Code, is only regulated in Article 11 by R. Soesilo formulated as follows: implementation of the death penalty imposed by the Court in the environment of General justice or military justice, carried out by being shot to death, according to the provisions of Law No. 2 (Pnps) of 1964.

Prior to the provisions of Law No. 2 (PnPs) of 1964, capital punishment was carried out by executioners, using a noose around the neck of the condemned and tying the noose to the gallows and knocking down the board on which the person was standing. The execution of the death penalty before Law No. 2/Pnps/1964 is to hang the convict.

Satochid Kertanegara said bawha: "in the days of the Dutch East Indies it was stipulated that if the death penalty could not be carried out by a certain Executioner, The punishment must be carried out by shooting in front of the firing squad".

The execution of the death penalty, imposed by a court in the environment of public justice or military justice, is carried out by being shot to death. This provision does not detract from the existing provisions in the code of Criminal Procedure on the execution of court decisions. Based on Law No. 35 of 2009 on narcotics :

- a) Article 113 paragraph (2)
- b) Article 114 paragraph (2)
- c) Article 116 paragraph (2)
- d) Article 118 paragraph (2)
- e) Article 119 paragraph (2)
- f) Article 121 paragraph (2)
- g) Article 133 paragraph (1)

B. Problems of execution of the death penalty

Based on research conducted by the author, that the pros and cons in the implementation of the death penalty in Indonesia is still happening, this is because each party still maintains its argument. But what must be considered by law enforcers who carry out executions, namely not allowing years of death row inmates to wait for their execution. This will lead to psychological disorders or mental disorders. "The last Data I received, the death row inmates in the prison were already 538," said Head of the Balitbang Kemenkumham Sri Puguh Budi Utami in a webinar broadcast by the ICJRID Youtube account. of the 538 convicts, 4 have been awaiting execution for more than 20 years. Subsequently, waiting for execution time for 16-20 years as many as 16 people, 11-15 years (37 people), 6-10 years (97 people), and 8 months-5 years (204 people).

Reflecting on the length of the convicts waiting for execution, Puguh assessed that it made the convicts experience imprisonment and the death penalty at the same time. Puguh, who is the former Director General of Corrections, revealed that the length of waiting for the execution time had a bad effect on the psyche and mentality of the death row inmates. "Many of those who are currently sentenced to death have injured themselves several times, maybe it has been a very extraordinary psychological pressure," said Puguh. According to Puguh, it also makes the death penalty and hu kuman for life seem to make no difference. (Compass. 08/10/2020). Based on data from Kompas, it can be seen that as many as 538 people on death row, who are waiting for execution, there are even 4 of them who have been waiting for execution for more than 20 years.

The execution of court decisions that have permanent legal force in the case of death row inmates must be carried out as soon as possible in order to create legal certainty for the community. The time of execution of death row convicts drug cases in accordance with law No. 35 of 2009 on narcotics article 113, 114, 116, 118, 119, 121, 133. Based on research Law 35 of 2009 on narcotics in Article 113, 114, 116, 118, 119, 121 and 133 not a single verse has been found stating the time for the execution of death sentences for death row inmates who already have permanent legal force.

CONCLUSION

The reason for those who are pro-death penalty is because of the increase in kuliatas and the quantity

of crime from time to time, so that criminals who are increasingly terrorized are rewarded with shock therapy, in the form of death penalty, especially for heavyweight criminals who harm people such as convicted narcotics. As for those who counter the death penalty, they argue that humans can still change for the better and if there is a mistake in sentencing, when executed, the convict does not get a chance to live.

The existence of a time lag that is not specified in Law No. 35 of 2009 concerning the execution of the death penalty since the death penalty sentence has binding legal force, causing legal uncertainty, making the death row inmate experiencing psychological disorders or mental disorders because they have to wait in an unclear time.

REFERENCES

-----, Sistem Pidana Dan Pemidanaan Indonesia Dari Retribusi Ke Reformasi, Pradnya Paramitha, Jakarta, 1986.

Hamidi, S Gayo, A Sitompul. (2021). Juridical Analysis on The Procurement Of Goods/Service Of The Government To Realize Good Governance (Research Studies In The Department Of Human Settlement and Layout Batam City). International Journal Of Research and Review 8 (11).

Hamzah, Andi, Hukum Pidana Ekonomi, Erlangga, Jakarta, 1973.

Prodjodikoro, Wirjono, Asas-Asas Hukum Pidana di Indonesia, Eresco, Bandung, 1986.

Rasyid, Khairani, Suatu Tinjauan Masalah Pidana Mati dalam Negara Pancasila, Baladika, Jakarta 1977.

Sahetapy J.E., Suatu Situasi Khusus Mengenai Ancaman Pidana Mati Terhadap Pembunuhan Berencana, CV Rajawali, 1982.

Saleh, Roeslan, Stelsel Pidana Indonesia, Aksara Baru, Jakarta, 1987.

Shadily, Hassan, Ensiklopedia Indonesia, Ikhtiar Baru, Jakarta, 1980.

Sianturi S.R., Azas-Azas Hukum Pidana Indonesia Dan Penerapannya, Alumni AHAEM-PETAHAEM, Jakarta, 1982.

Sitompul, A (2022). E Procurement System In The Mechanism Of Procurement Of Good And Service Electronically, International

Asia Of Law And Money Laundering,
1(1),59-60.

Sitompul, A, P Hasibuan, M Sahnan. (2021). The Morality Of Law Enforcement Agencies (Police, Prosecutor's Office, KPK) In Money Laundering With The Origin Of The Corruption. European Science Review 9 (10)

Sitompul, A. (2020). The Criminal Replacement Of Fine In Law Of Money Laundering Number 8 Of 2010 (Case Study In North Sumatera). International Journal Of Creative Research Thoughts, 8 (11).

Sitompul,A , & Sitompul, M. N. (2020, February). The Combination Of Money Laundering Crime With The Origin Of Narkotics Crime To Islamic Law. In Proceeding International Seminar of Islamic Studies (Vol. 1, No. 1)

Sitompul,A , & Sitompul, M. N. (2022, Juni). Execution Of Death Penalty In Narcotics Crime In The Perspektif Of National Law In Indonesia. , International Asia Of Law And Money Laundering, 1(2),109.

Soejono D., Hukum Dan Pembangunan Hukum Pidana, Tarsito, bandung, 1974.

Tim Penerjemah Badan Pembinaan Hukum Nasional Departemen Kehakiman Republik Indonesia, KUHP, Sinar Harapan, Jakarta, 1983.

Ultrect E., Hukum Pidana I, Penerbitan Universitas, Jakarta, 1958.

Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika.

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International Asia Of Law and Money Laundering

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