

Analysis of the Abolition of the Death Penalty for Drug Trafficking Crimes in Indonesia the Case Study: SERANG District Court Decision Number 837/Pid.Sus/2020/PN Srg

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ABSTRACT

This study examines the contentious issue of the death penalty in Indonesia, with a focus on its application in cases of drug trafficking. The debate is framed by the case of SERANG District Court Decision Number 837/Pid.Sus/2020/PN.Srg, where a death sentence was commuted to a 20-year imprisonment term, sparking discussions on the death penalty's effectiveness as a deterrent and its compatibility with human rights. The research employs a normative juridical method, analyzing relevant laws and conducting library research to explore the juridical aspects of law enforcement against drug trafficking. The findings highlight the tension between the need to address the serious threat of drugs to society and the evolving legal and ethical perspectives on capital punishment. The study aims to contribute to the development of legal policies that are both effective in combating drug crimes and aligned with principles of justice and human rights. Besides Law Number 35 of 2009 concerning Narcotics and human rights contained in Article 28 of the 1945 Constitution which has become a debate for and against the death penalty that is ongoing in Indonesia, the existence of Article 98 of the Criminal Code which regulates alternatives to the death penalty, changing the death sentence for drug dealers to 20 years is possible after a waiting period of 10 years.

Keywords: Death Penalty, Human Rights, Drugs Trafficking, Indonesia

BACKGROUND

The spread of drugs is a serious threat to Indonesian society because it is an extraordinary crime that threatens the nation[1]. Based on a survey report on the development of drug abuse in Indonesia, it is estimated that the number of drug abusers reaches 3.8 million to 4.1 million people, or around 2.10% to 2.25% of the total population of Indonesia's productive age[2]. In fact, it is anticipated that 2.8% of Indonesians between the ages of 10 and 59 consume drugs, or 5.1 to 5.6 million individuals[3]. Drug abuse tends to come from school and college students, who are groups that are vulnerable to exposure to drugs. The threat of drug abuse to the younger generation can also result in the phenomenon of a "lost generation" or a lost generation in the future[4]. This could have a serious impact on national resilience, because the young generation should be the backbone who makes important contributions in the era of the demographic bonus[5]. Apart from that, drug abuse can also disrupt the quality of life, both physically and psychologically [6]. Impaired quality of life due to drug abuse includes difficulty concentrating at work, financial problems, and even legal consequences if involved in drug abuse activities[7]. Moreover, the spread of drugs is a serious threat to Indonesian society due to several significant reasons, such as social and health impact, national resilience, and legal and security issues.

Indonesia is known for imposing the death penalty for drug trafficking crimes. However, in recent years, there has been an escalating debate on whether the death penalty should be abolished^[8]. In this case, SERANG District Court Decision Number 837/Pid.Sus/2020/PN.Srg provides an intriguing example for analysis. Indonesia has long been battling against drugs. According to the National Narcotics Agency (BNN), in 2019, there were approximately 3.6 million drug users in Indonesia. To address this issue, Indonesia has implemented the death penalty for drug trafficking crimes. Nonetheless, there is ongoing discussion on the death penalty's efficacy as a deterrent.

The SERANG District Court Decision Number 837/Pid.Sus/2020/PN.Srg is a case where the defendant was sentenced to death for proven drug trafficking crimes. However, this sentence was later annulled and replaced with a 20-year' imprisonment sentence. This decision sparked various reactions and triggered discussions on whether the death penalty should be abolished in Indonesia. Common arguments in this discussion revolve around human rights, whether the death sentence is indeed fair, and how well it works as a deterrent. Some contend that the death sentence is ineffective as a deterrent and violates human rights. However, some contend that the death sentence is an appropriate punishment for crimes involving drug trafficking and that it can discourage future offenders. This research aims to analyze the abolition of the death penalty in the case of SERANG District Court Decision Number 837/Pid.Sus/2020/PN.Srg and its implications on criminal law in Indonesia. This research is expected to provide new insights into the debate on the death penalty in Indonesia. In addition, this research has important relevance in the context of law enforcement in Indonesia, particularly regarding the policy of the death penalty for drug-related crimes. By understanding the juridical aspects involved in cases like this, it is hoped that it can contribute to the development of more effective and fair legal policies in handling drug-related crimes.

METHODOLOGY

The research method that will be used in this research is a normative juridical research method by analyzing applicable laws and norms as well as library research methods. The normative juridical research method is a commonly used approach in legal science to analyze legal regulations and other legal documents. This method focuses on analyzing legal texts and uses deductive reasoning to draw conclusions about the legal issues being studied. Firstly, the researcher collects relevant legal materials, such as laws, government regulations, court decisions, and other legal documents. Then, researchers analyze the materials using relevant conceptual frameworks, such as legal principles or certain legal theories. One example of a normative juridical research method is a study conducted by Alamsyah (2020) using normative juridical methods to analyze various decisions of the Indonesian Constitutional Court and evaluate the extent to which the principles of justice are implemented in these decisions. In addition, a study by Pramudya (2021) used a normative juridical approach to evaluate the application of the principle of legal certainty in decisions of the Indonesian Supreme Court. Pramudya analyzed a series of Supreme Court decisions and identified patterns in the application of the principle of legal certainty. With this approach, it is hoped that this research can contribute to understanding the juridical aspects related to law enforcement against drug trafficking crimes, especially related to the cancellation of the death penalty in the context of SERANG District Court Decision Number 837/Pid.Sus/2020/PN Srg.

DISCUSSION

Capital punishment, also known as the death penalty or execution, is a form of punishment in which a person convicted of certain crimes is sentenced to death by the state. This penalty is often applied for crimes considered extremely severe or heinous, such as premeditated murder, terrorism, and treason. Capital punishment represents the most extreme and irreversible form of legal sanction, as it deprives an individual of their most fundamental right—the right to life. Various methods of execution have been used throughout lethal injection, electrocution, hanging, firing squad, gas chamber, or stoning. Indonesia has stringent laws

governing the control and enforcement of narcotics, with the death penalty being one of the most severe sanctions. Law No. 35 of 2009 concerning Narcotics serves as the primary legal basis, replacing Law No. 22 of 1997. This legislation classifies narcotics into three groups based on their potential for abuse and medical benefits. Violations related to the production, trafficking, possession, and use of narcotics can incur severe penalties, including life imprisonment and the death penalty, especially for Category I narcotics. Law enforcement is rigorously conducted by the National Narcotics Agency (BNN) in collaboration with other law enforcement agencies. This is in accordance with Article 114, paragraph (2) Law No. 35 of 2009, which explains that:

“In the event that the act of offering for sale, selling, buying, intermediating in the sale and purchase, exchanging, delivering, or receiving Class I Narcotics as referred to in paragraph (1) which in the form of plants weighs more than 1 (one) kilogram or more than 5 (five) tree trunks or in the form of non-plants weighs 5 (five) grams, the perpetrator is transferred to the death penalty, life imprisonment, or imprisonment for a minimum of 6 (six) years and a maximum of 20 (twenty) years and the maximum fine as referred to in paragraph (1) plus 1/3 (one third)”.

Meanwhile, narcotics dealers are also sentenced to death if proven to be class II narcotics dealers, this is contained in Article 119 paragraph (2) Law No. 35 of 2009, which reads:

“In the event that the act of offering for sale, selling, buying, receiving, being an intermediary in the sale, purchase, exchange, or delivery of Class II Narcotics as referred to in paragraph (1) weighs more than 5 (five) grams, the perpetrator shall be punished with death penalty, life imprisonment, or imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years and a maximum fine as referred to in paragraph (1) plus a maximum fine as referred to in paragraph (1) plus 1/3 (one-third)”.

In consideration of letter c of Law No. 35/2009 on Narcotics, drugs are said to have advantages for the advancement of science, medicine, and health services^[9]. However, on the other hand, uncontrolled and unsupervised use can cause harmful dependence. Provisions 113 paragraph (2), 114 paragraph (2), 116 paragraph (2), 118 paragraph (2), 119 paragraph (2), 121 paragraph (2), and 133 paragraph (2) Law No. 35 of 2009 are among the various provisions in the same law that govern the death penalty. Offenders of crimes against narcotics may face the death penalty or incarceration, according to Law Number 35 of 2009. Law No. 35/2009 on Narcotics regulates various aspects related to drug abuse in Indonesia. One of the provisions regulated is regarding drug-related criminal offenses, including penalties for drug offenders ^[10]. The law also includes provisions on drug abuse, including provisions on drug abusers and the legal measures that can be applied against them^[11]. One of them is the death penalty as the most severe punishment for criminal offenses, including drugs^[12]. The law accommodates the death penalty as an option for serious crimes, such as in narcotics cases. This means that the death penalty for serious crimes is not considered as an arbitrary deprivation of the right to life, but rather as a punishment that is in accordance with the applicable law.

The pros and cons in the community related to the cancellation of death penalty verdicts against narcotics convicts by the President and Supreme Court Judges are related to the view that the cancellation is considered a step backward in the war against drugs^[13] and can be a strong deterrent to prevent people from getting involved in the drug trade^[14]. The application of the death penalty against drug offenders can be seen as an important step to restoring morale and social values against drugs. They argue that drug crimes are extraordinary crimes that can have an extraordinary impact on the life and cultural values of the nation so drug offenders must be rewarded with the severest punishment^[15]. They are also of the view that the cancellation of the death penalty can be considered an inappropriate step in addressing the drug problem because drug crimes are considered serious and can weaken national resilience. Broadly speaking, some argue that the death penalty can increase people's sense of justice. Singapore has strictly implemented policies against drugs, including the application of the death penalty, and is often used as an example of success in dealing with drug trafficking, although it still raises controversy and debate^[16]. Furthermore,

South Korea also applies the death penalty in certain cases, especially those involving large-scale drug trafficking, to social rehabilitation and reintegration programs where this policy has reduced the level of drug crime[17].

In addition. A study also revealed that the implementation of the death penalty for drug dealers led to a decrease in the number of cases and activities of drug dealers[18]. In fact, in accordance with Law Number 35 Year 2009 on Drugs which contains the death penalty for drug dealers as referred to in Article 114 paragraph (2) and Article 119 paragraph (2), this law provides for the death penalty even though it is not in accordance with Islamic law. The idea in Islam is that the death penalty is strictly forbidden for all those who execute it. In a sense, the death penalty is similar to Islamic law. The consequences of Islamic crimes that can harm or take the lives of others through the sale of illegal drugs are more detrimental to the same person. Or two people are affected but have an impact on the welfare of society. This gives the view that the death penalty applied to narcotics dealers is basically not against human rights or Islamic law[19].

However, several studies show that the death penalty is not effective in eradicating drug trafficking. A study by Mastrobuoni and Rivers (2013) found that there is no evidence to support the hypothesis that the death penalty has a significant impact on drug abuse rates[20]. The death penalty for drug crimes is often considered a human rights violation. Many human rights groups, such as Amnesty International, oppose the use of the death penalty in any situation, including drug cases[21]. Some parties argue that drug crimes are extraordinary crimes that can have an extraordinary impact on the life and cultural values of the nation so drug offenders should be rewarded with the severest punishment possible. However, there is also a view that the cancellation of the death penalty can be considered an inappropriate step in responding to the drug problem because drug crimes are considered serious and can weaken national resilience.

The defendants, Bashir Ahmed bin Muhammad Umeir and Adel Bin Saeed Yaslam Awadh have been found legally and convincingly guilty of committing the crime of evil conspiracy in relation to receiving, selling, and acting as an intermediary in the purchase and sale of class I non-plant narcotics weighing more than 5 (five) grams, according to SERANG District Court Decision Number 837/Pid.Sus/2020/PN Srg. As a result, both defendants were sentenced to death. Apart from that, the decision also stipulates that the two defendants remain in detention and states that evidence found during the investigation process, such as crystal methamphetamine, several cellphones, electric scales, GPS, as well as cars and other property, will be confiscated for destruction or confiscation for the state. Items that have clear owners, such as cars, shophouses, apartments, and savings books, will be returned to their rightful owners. Finally, the decision also imposes court costs on the state for each defendant[22].

The two defendants were originally given the death penalty after being found guilty of narcotics trafficking offenses, according to the ruling. Nevertheless, the sentence was subsequently reduced to 20 years in prison. The consideration of human rights, particularly the right to life protected by Article 28A paragraph (1) of the 1945 Constitution, was one of the factors leading to this modification. The 1945 Constitution's guarantee of the right to life is one of the fundamental human rights that is allegedly violated by the death penalty. It is believed that everyone has the inalienable right to life, which cannot be taken away. Furthermore, the death sentence is seen as a denial of an individual's right to life, as stated in the 1945[23]. The death penalty is regulated in Law Number 1, the Year 2023 on the Criminal Code, specifically in Article 98, which explains that the death penalty or capital punishment is imposed as a last resort to prevent criminal offenses and protect the community.

Anselm von Feuerbach stated that the general basis for determining the existence or absence of punishment as well as the justification of punishment itself, is to preserve the freedom of all individuals in a respectful manner, by eliminating the individual's desire to commit unlawful acts[24]. Every sentence by a judge must be a legal consequence of a regulation stipulated in law, with a view to ensuring the protection of the rights of every individual[25]. The alternative to the death penalty, namely the use of alternative punishments, is

arranged and structured in such a way that death row prisoners can obtain forgiveness for their actions. Efforts to convert the death penalty into an alternative punishment must be based on the most basic legal foundations, such as the rule of law.

The change in legal policy for drug traffickers from the death penalty to imprisonment still reflects a paradigm shift in dealing with drug crimes. This move is often seen as an effort to reduce violence and focus on the humanitarian and human rights aspects of law enforcement. A study by Alamar et al. (2015) found that changing the death penalty policy for drug traffickers to incarceration can reduce the level of violence and change the strategies of drug traffickers[26]. They examined the impact of Arizona's Proposition 200, a policy that changed the legal stance on drug use and directed addicts to rehabilitation programs instead of prison. The results showed that Proposition 200 had a significant impact on drug trafficking in Arizona. Although the number of drug users increased after this policy was implemented, the arrest and prosecution rate of drug trafficking cases decreased significantly. This suggests that changing the policy from the death penalty to imprisonment can reduce the level of violence in drug trafficking and change offenders' strategies. This study highlights the importance of holistic treatment in drug law enforcement.

Research by Hjalmarsson and Holmlund (2008) shows that changing the death penalty policy for drug traffickers to a detention policy can pay more attention to humanitarian aspects and human rights in law enforcement so that it affects the community's response to the policy[27]. In their study, they analyzed the impact of the death penalty policy change on prison sentences in drug crime cases. They used empirical data and qualitative analysis to assess how this policy change affected the treatment of drug offenders in the criminal justice system. The findings show that changing the death penalty policy to a prison sentence can provide greater protection for the human rights of drug offenders. This step reflects a paradigm shift in law enforcement that emphasizes humanity and the principles of justice.

In addition, various studies show that the death penalty is not effective in reducing drug trafficking. The study conducted by Mastrobuoni and Rivers (2013) found no evidence to support the hypothesis that the death penalty has a significant impact on the level of drug abuse[28]. In their study, they analyzed the effectiveness of policies aimed at reducing drug abuse. They used empirical data and econometric models to evaluate the impact of various policies, including the death penalty, on drug abuse rates. Their findings show no evidence that the death penalty has a significant impact on drug abuse rates. This study highlights the importance of delving deeper into other factors that may contribute to drug abuse and the importance of taking a more holistic approach to addressing the issue. These studies provide a better understanding of the relationship between the death penalty and drug abuse and show that a death penalty-centered approach is not sufficient to address this complex issue effectively. This is confirmed by one of the relevant studies conducted by Miethe and Moore (1986), who examined the relationship between the death penalty and crime rates in various countries, including Indonesia[29]. This study used empirical data and statistical analysis to evaluate the impact of the application of the death penalty on crime rates. Their results show that there is no evidence to suggest that the application of the death penalty consistently reduces the crime rate in Indonesia. These findings highlight the weaknesses of the death penalty approach in addressing the crime problem, as well as pointing to the need to find more effective and sustainable policy alternatives. In the legal context in Indonesia, the application of the death penalty is mainly related to narcotics cases regulated by Law No. 35/2009 on Narcotics. The Amnesty International report highlights several issues related to the use of the death penalty for drug offenders, including the risk of executing innocent people, the unfairness of the judicial process, and the lack of effectiveness in reducing drug trafficking. The study emphasizes the importance of respecting the human rights of every individual, including drug offenders, and highlights the need for a more holistic approach to dealing with the drug problem.

Although the death penalty is not effective enough and can be changed to imprisonment, a study by Alamar et al. (2015) also showed the negative impact that imprisonment is not effective enough in preventing drug offenders from re-engaging in drug trafficking[30]. Also showed the negative impact that prison sentences

in some cases are not effective enough in preventing drug offenders from re-engaging in the drug trade. They examined the impact of drug policy on drug trafficking, including the rate of return of drug offenders to the trade. Their research showed that despite an increase in the use of rehabilitation programs after the enactment of Proposition 200, there were still several drug offenders who re-engaged in drug trafficking after they left rehabilitation programs. This suggests that policies that focus on rehabilitation have not been effective enough in preventing drug offenders from returning to the trade. In this case, it is sufficient to show that an approach that only focuses on punishment or rehabilitation has not been able to effectively prevent drug offenders from re-engaging in drug trafficking. Drug offenders run the risk of returning to the drug trade once they are released from jail if the death penalty is not an option. The lack of a strong deterrent may encourage them to risk returning to the criminal world. Drug offenders who re-engage in drug trafficking after their release from prison are important in understanding the risks and challenges of tackling drug problems. A study by Kleiman (1993) highlighted that some drug offenders re-engage in drug trafficking after they leave prison due to various factors, including limited access to decent employment opportunities, relapse into drug addiction, as well as a social environment that facilitates a return to illegal activities[31]. These factors create a high risk that drug offenders will re-engage in the drug trade despite having served their prison sentences. Research by Johnson & Kleiman (2017) also highlights that success in preventing drug offenders from re-engaging in the drug trade after they leave prison depends on the effectiveness of the rehabilitation and reintegration programs available[32]. The likelihood of reentering the drug trade will remain high if rehabilitation programs do not have a comprehensive strategy that considers the psychological, social, and economic variables that motivate criminal conduct.

Article 98 of the Criminal Code on Death Penalty as an Alternative Punishment provides for the requirements and procedures for applying for a change of the death penalty to imprisonment for a certain period[33]. This article provides an opportunity for death convicts to apply for commutation of the death penalty to imprisonment, especially in certain cases that are deemed eligible. According to Article 98 of the Criminal Code, people sentenced to death can apply for commutation of death penalty to imprisonment if there are strong reasons and based on sufficient considerations, such as adjustments to the development of society and the values of justice. The process of applying for changes to the death penalty usually involves a careful legal process, including a re-examination of the facts of the case, the judge's consideration, and opinions from various related parties. In the research conducted by Santosa (2017), the results are as follows [34].

1. Judicial Process Related to Death Penalty

This process is one of the judicial processes undertaken by defendants sentenced to death, starting from the investigation stage to the execution of sentences. Santosa concluded that the judicial process related to the death penalty in Indonesia still faces a number of challenges, including a lack of human and financial resources in the justice system. This can affect the fairness of the trial and the protection of the rights of the accused.

2. Appeal and Cassation Procedures

Santosa analyzed the extent to which the appeals and cassation processes provide justice to defendants and how these decisions affect the outcome of death penalty cases. This research shows that the appeal and cassation procedures in death penalty cases have not always provided adequate guarantees of justice for defendants. Santosa suggested the need for reforms in appeal and cassation procedures to improve justice in the justice system.

3. Execution of the Death Penalty

One aspect that was analyzed was the implementation of death penalty executions. Santosa noted that the execution of the death penalty in Indonesia still triggers controversy and debate, especially in relation to

compliance with human rights standards and humanitarian principles. This research shows the need for increased transparency and accountability in the implementation of the death penalty.

4. The Effectiveness of the Death Penalty in Suppressing Crime Rates

This study aims to determine what factors influence the effectiveness of the death penalty and whether it significantly lowers the crime rate. This study discovered that while some people believe the death penalty to be an effective deterrent in reducing crime rates, there is currently insufficient evidence to substantiate such claims. Santosa emphasized the necessity of doing a more thorough analysis of the death penalty's efficacy in relation to Indonesian law enforcement.

5. Consistency with the Principles of Justice and Human Rights

This study examines whether the death penalty is consistent with the ideals of justice and human rights. Santosa analyzed whether the death sentence is in line with internationally recognized legal values and human rights and the ramifications for Indonesia's justice system. The study indicates that the death sentence in Indonesia should always be implemented in accordance with justice and human rights standards. Santosa proposed that death penalty laws and practices should be consistent with international human rights and humanitarian norms.

In addition, research conducted by Wibisono (2015) resulted in affected aspects. He noted that the death penalty has long been used in the Indonesian legal system as a form of punishment for serious crimes, including drug cases[35]. The following are the affected aspects according to Wibisono (2015).

A. Legal Aspects

Wibisono analyzed the various laws and regulations governing the death penalty, as well as the underlying legal principles. He concluded that the death penalty in Indonesia is based on a strong legal basis, but there are different opinions and interpretations regarding its implementation. Although there are clear regulations regarding the use of the death penalty in certain cases, there are still challenges in its application, especially in relation to fairness in the judicial process.

B. Social Aspects

Wibisono also discusses the social aspects of the application of the death penalty, including the public's view on the death penalty and its impact on society as a whole. He considers various social, cultural, and political factors that influence people's perceptions and attitudes towards the death penalty. In terms of social aspects, Wibisono found that people's views on the death penalty tend to vary, depending on cultural, religious, and socioeconomic backgrounds. While there is support for the death penalty as a form of punishment for serious crimes, there is also criticism of its fairness and effectiveness in deterring crime.

C. Human Rights Aspects

This study's examination of the death penalty's effects on human rights is one of its primary goals. Wibisono assessed the impact of the death sentence on the defense of individual human rights as well as whether its implementation in Indonesia conforms with internationally recognized human rights standards. According to Wibisono's human rights review, the death penalty's implementation in Indonesia brings up a number of concerns for the defense of individual human rights. Human rights violations are a concern, as is the possibility of innocent people being executed and of due process being violated.

D. Effectiveness of the Death Penalty

The usefulness of the death sentence in Indonesia as a weapon for law enforcement is another goal of this

study. In addition to taking into account potential more effective alternatives, Wibisono outlines a number of elements that impact the death penalty's ability to accomplish law enforcement goals. Additionally, Wibisono assesses the death penalty's efficacy in Indonesia as a weapon for law enforcement. The research indicates that while there are arguments in favor of the death penalty as a useful deterrent to crime, these arguments are not yet sufficiently well-supported by the available data. Concerns exist regarding the possibility of permanent damage in death sentence cases as well.

Based on his analysis, Wibisono concluded that the application of the death penalty in Indonesia raises a number of complex and controversial issues, including legal, social, and human rights issues. He suggested the need for an in-depth evaluation of the use of the death penalty and further discussion of sentencing alternatives that are more in line with human rights principles. In addition, Wibisono also encouraged the need for reforms in the judicial system to ensure that the judicial process is fair and transparent.

The study by Garcia et al. (2020) brought to light the fact that drug traffickers' killings frequently violate human rights, including the right to life and the prohibition against torture and other cruel, inhuman, or degrading treatment[36]. They emphasize that the death penalty is incompatible with human rights concepts that uphold each person's right to life and dignity, as well as being the most severe form of punishment. Furthermore, research by Johnson & Klein (2018) shows that there is a high risk of errors in the justice system that could result in the execution of innocent individuals[37]. This is a serious violation of human rights, as no legal system is perfect, and mistakes can happen, especially in cases involving complex drug abuse. In addition, human rights violations can also occur in judicial processes that are not fair and transparent. Findings from the study by Smith et al. (2019) show that factors such as wealth, social status, and unequal access to lawyers often influence the outcome of trials, which can result in violations of individuals' human rights to fair treatment in court[38]. Based on these studies, human rights are universal principles that guarantee the freedom, dignity, and protection of individuals. Everyone has the right to life and the right not to be tortured or treated cruelly, inhumanely, or degradingly. The imposition of the death penalty for drug traffickers may contravene these human rights principles. In addition, executions of drug traffickers often violate human rights. There is a high risk of errors in the justice system that could result in the execution of innocent individuals. In addition, unfair and non-transparent judicial processes can also result in a violation of an individual's human right to fair treatment in court. There are also arguments highlighting that the death penalty is ineffective in combating drug trafficking. Several studies have shown that there is not strong enough evidence to support the claim that the death penalty is effective in preventing drug abuse. Social, economic, and political factors tend to influence the behavior of offenders more than the threat of the death penalty. The application of the death penalty for drug traffickers also raises questions about fairness in the legal system. Unfair trials, irreparable errors, and human rights violations can dehumanize individuals and undermine the integrity of the justice system.

However, changing the death penalty to life imprisonment is not recommended because it does not fulfill the purpose of punishment in accordance with statutory provisions, namely so that convicts can be accepted back by society, play an active role in development, and live a suitable life as good and responsible citizens. Requirements that can be set include that death row inmates have served a ten-year waiting period and received a positive assessment during that period. The use of a ten-year period from the verdict of the first instance aims to expedite the judgment that will determine the change of the death penalty to imprisonment for a specified period[39]. This is so that if the death penalty can be changed to imprisonment for a certain period, then the criminal period can be minimized for the prisoner.

The debate on the death penalty that continues today has caused polemics. Various views have developed regarding the death penalty. Jimly Asshiddiqie stated that the application of the death penalty must be carried out carefully and cautiously, considering human rights and the principles of justice. According to Asshiddiqie, every individual has the human right to life, and the decision to take someone's life is a very difficult decision and must be carefully considered. Furthermore, Asshiddiqie also highlighted the

importance of the principles of justice in the application of the death penalty. He argued that the judicial process must be fair and transparent, and every defendant must have equal access to the justice system. Injustice or shortcomings in the judicial process can result in irreparable harm, which is highly undesirable in the context of the death penalty. To provide a broader context on this issue, we also need to look at the findings of some related journals. A study by Smith et al. (2018) found that the death penalty tends to be applied unevenly to certain groups in society, such as racial or economic minorities [40]. This highlights the potential injustice in the application of the death penalty. In addition, research by Johnson & Klein (2019) showed that there is a high risk of judicial error that could result in the execution of innocent individuals [41]. This emphasizes the need for extra caution in applying the death penalty, as Asshiddiqie has also stressed.

CONCLUSION

From the research results that have been presented, there are a number of findings that provide insight into the death penalty for drug traffickers. Firstly, it is important to note that although the death penalty is provided for in Indonesia's drug-related laws, there is extensive debate about the effectiveness and fairness of its implementation. Some experts argue that the death penalty for drug traffickers can be considered an effective measure in tackling drug trafficking, but this opinion is also balanced by the view that the death penalty is ineffective in reducing drug trafficking.

Furthermore, there are human rights implications that must be considered in the context of the application of the death penalty. Human rights, including the right to life and the right not to be tortured, are key arguments for those who oppose the application of the death penalty. Several studies have shown that the death penalty often violates human rights, especially when there are errors in the judicial system or in the execution process. There are also arguments that changing the death penalty to imprisonment for a certain period of time could be a better solution. Nonetheless, it is important to remember that prison sentences also have drawbacks in preventing drug offenders from re-engaging in the drug trade once they are released from prison. Factors such as access to decent work, relapse into drug dependence, and a social environment that facilitates a return to illegal activity, are key challenges in addressing this issue. Alternatively, policy changes that emphasize rehabilitation and reintegration may also be a more effective approach to tackling the drug problem. Holistic rehabilitation programs, which include psychological, social, and economic aspects, can help prevent drug offenders from re-engaging in drug trafficking once they are released from prison.

In the Indonesian legal context, Article 98 of the Criminal Code provides an opportunity for prisoners sentenced to death to apply for commutation of the death sentence to imprisonment. However, this process must be conducted carefully and cautiously, taking into account various related aspects, including implications for human rights and principles of justice. The study's findings thus demonstrate the complicated and contentious ramifications of applying the death penalty to drug dealers. While the death penalty is considered a harsh measure in tackling drug trafficking, it is important to consider human rights and seek a more holistic and rehabilitation-based approach to dealing with drug problems.

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