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Reflecting on Justice for Women in the Death Penalty Regulation for Perpetrators of Narcotics Distribution

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Abstract. *The pressure of economic needs, limited social welfare, and the rapid flow of digital information have made women vulnerable to exploitation by drug trafficking networks as drug couriers. The death penalty for women who are victims of exploitation by drug trafficking criminal networks is clearly far from justice. The approach used in this paper is a qualitative one. Based on the study, it can be seen that Women are often tricked and exploited as drug couriers to provide benefits for drug dealers, the death penalty often threatens women who are exploited as drug couriers, the government should review the criminal regulations, considering that women in this case are only victims of exploitation by the drug distribution network. The government should also not only apply the death penalty to women who are exploited as drug couriers, but also need to eradicate the main drug dealers to the drug producers, in reality the existence of Review and pardons is often the reason for delaying or even canceling the execution of the death penalty for drug dealers, so that drug dealers can have the opportunity to be free from the clutches of the law.*

Keywords: *Criminal; Dead; Female; Narcotics.*

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1. Introduction

The high number of narcotics trafficking is shown by the fact that towards the end of 2024 the National Narcotics Agency of the Republic of Indonesia (BNN RI) held a case disclosure of the results of narcotics crimes at the BNN RI office, Thursday (5/12). A total of 15 cases were revealed, consisting of various regions in the country such as North Sumatra, North Kalimantan, Bali, Riau Islands, East Kalimantan, Central Sulawesi, Lombok, DKI Jakarta, Banten, and Bangka Belitung. BNN RI never stops uncovering cases of illicit narcotics trafficking in Indonesia, both from within and international networks. Collaborating with various parties such as Customs and Excise, this BNN case disclosure succeeded in securing evidence in the form of methamphetamine, marijuana, ecstasy and cocaine. From 15 cases, the amount of evidence obtained was 80,877 grams of methamphetamine, 169,432.78 grams of marijuana, 59,807 ecstasy pills and 1,968 grams of cocaine. As well as cash worth Rp301,940,000 (three hundred and one million nine hundred and forty thousand rupiah). For the actions of the 35 suspects, they were charged with Article 114 (2) Jo Article 132 (1) sub Article 113 (2) jo Article 132 (1), more subsidiary Article 112 (2) of the Republic of Indonesia Law No. 35 of 2009 concerning Narcotics. With the amount of narcotics evidence confiscated in the disclosure of narcotics crime cases, the Indonesian National Narcotics Agency has succeeded in saving 475,903 lives from potential narcotics abuse. Based on information from the public, on Tuesday, November 19, 2024 at around 08.00 WIB on Jl. Dusun III Gang Subur, Kampung Lalang Village, Sunggal District, Deli Serdang Regency, two perpetrators, MS and SL, were arrested in the context of Extraordinary crime. It is known that there was distribution and circulation of marijuana narcotics in the Deli Serdang area. Based on this information, the BNN team conducted a search and investigation. Ultimately, a search of MS's house yielded evidence of narcotics, including one sack of marijuana containing 13 (thirteen) packages weighing a total of 13,950 grams (thirteen thousand nine hundred and fifty grams). Further investigation revealed that MS received the illicit goods from SL. The suspect, SL, was eventually apprehended not far from MS's home. Four sacks of marijuana, totaling 90,650 grams, were also seized. The perpetrators will also face the death penalty as a preventative measure against the increasing number of narcotics trafficking crimes.¹

¹National Narcotics Agency: "Near the end of 2024, the Indonesian National Narcotics Agency (BNN) uncovered 15 cases of illicit drug trafficking." <https://bnn.go.id/jelang-akhir-tahun-2024-bnn-ri-ungkap-15-kasus-peredaran-gelap-narkotika/>, May 15, 2025.

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The circulation of narcotics in Indonesia is increasingly rampant in Indonesia, not only in Banyumas. The Narcotics Investigation Unit of the Banjarmasin City Police, under the South Kalimantan Regional Police, uncovered the illicit trafficking of 6.7 kilograms of methamphetamine during Operation Antik Intan 2024. In addition to uncovering the methamphetamine circulation case, the Banjarmasin Police also uncovered a case of circulation of ecstasy pills type ineks with evidence of 2,011 pills. Then members of the Banjarmasin Police confiscated 10.81 grams of ecstasy powder during Operation Antik 2024.²One of the drug dealer cases that was sentenced to death was the case of Amsyah Yadhi alias Yadi. Yadi was arrested on Jalan Gubernur Soebarjo, Gambut District, Banjar Regency. This operation was led by AKBP Ade Harri from Subdit III Ditresnarkoba Polda Kalimantan Selatan after receiving information about a large-scale drug transaction. At that time, Yadi was riding a green Yamaha Mio motorbike. The police immediately stopped him and conducted a search. As a result, 30 packages of crystal methamphetamine were found in large quantities, 4,832 ecstasy pills, and 13.91 grams of ecstasy powder ready for distribution. The Public Prosecutor charged Yadi with Article 114 Paragraph (2) of Law of the Republic of Indonesia No. 35 of 2009 concerning Narcotics as the primary charge, as well as Article 112 Paragraph (2) of the same law. With the very large amount of evidence, the demand for the death penalty became inevitable.³

Given the high rate of drug trafficking and the health impacts of drug use, narcotics cannot be underestimated. Narcotics have become a national emergency. According to Police Commissioner Riki Yanuarfi, Head of Public Relations for the National Narcotics Agency, Indonesia is currently entering a state of drug emergency. This situation is emphasized by the President's decision to impose the death penalty on drug convicts, both Indonesian citizens and foreigners. Riki then explained that the appropriate punishment for drug traffickers is the death penalty.⁴

The death penalty for narcotics traffickers is necessary because the death penalty is the most severe punishment and is a means of punishment to create a deterrent effect for extraordinary crimes that have a major damaging impact on the life of the nation and state.⁵This is explained in the General Explanation of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics, in the general explanation it is stated that:

²Antara, Banjarmasin Police uncover 6.7 kg of crystal methamphetamine during Operation Antik 2024, accessed via <https://kalsel.antaranews.com/berita/416820/polresta-banjarmasin-ungkap-67-kg-sabu-selama-operasi-antik-2024>, on May 12, 2024.



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³Kalimantan News Agency, "30 Kg of Crystal Meth Leads to Death, Prosecutor Demands Death Penalty for Drug Courier in Banjarmasin"<https://kbk.news/30-kg-of-meth-to-death-ends-prosecutor-demands-narcotics-courier-in-banjarmasin-with-the-death-penalty/>, April 11, 2025.

⁴BNN, Drug Emergency, accessed through<https://bnn.go.id/eksklusif-interview-with-the-head-of-public-relations-of-the-national-narcotics-agency-drugs-emergency/>, on October 3, 2024.

⁵Muhammad Alief Yunas Pahlevi, Catur Wido Haruni and Said Noor Prasetyo, "Implementation of the Death Penalty Sanctions against Narcotics Crime Perpetrators from a Responsive Law Perspective", *Rechtsidee*, Vol. 11, No. 2, 2023, pp. 8-9.



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To create a deterrent effect on perpetrators of narcotics and narcotic precursor abuse and illicit trafficking, regulations regulate the increased criminal penalties, including special minimum sentences, 20 (twenty) years' imprisonment, life imprisonment, and the death penalty. These increased penalties are based on the class, type, size, and quantity of narcotics.

The threat of the death penalty in the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics has been regulated in Article 113, Article 114, Article 116, Article 118, Article 119, Article 121, Article 132, and Article 133. Even though the death penalty is a punishment that is imposed on perpetrators of narcotics crimes, however, the number of narcotics circulation as explained above still occurs. The philosophical issue that often colors the debate on the death penalty for perpetrators of narcotics circulation is related to the right to life of narcotics perpetrators.

Yusril Ihza Mahendra argued that the death penalty was necessary because, for Yusril, extraordinary crimes committed by the state were intolerable, as they were related to the peace of the state. Achmad Ali expressed the opinion that the death penalty was very necessary and was applied through specifications and selectivity. Specification for extraordinary crimes. And selectivity is that the convict must, according to the facts of the trial, convince the judge that the perpetrator is him. As in its decision, the Constitutional Court judge concluded, the death penalty in the Narcotics Law at that time did not conflict with human rights and the right to life as stipulated in the 1945 Constitution of the Republic of Indonesia because the guarantee of human rights and the right to life in the 1945 Constitution of the Republic of Indonesia does not adhere to absolute principles.⁶

⁶Christofel Brayn Leonard Totomutu, I Nyoman Gede Sugiarta, and I Made Minggu Widyantara, "The Death Penalty in Narcotics Crimes Reviewed from a Human Rights Perspective (Study of Constitutional Court Decision Number 2-3/PUU-V/2007)", *Journal of Legal Construction*, Vol. 2, No. 2, 2021, p. 364.

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Those who oppose the death penalty for drug traffickers have filed a lawsuit with the Constitutional Court. The plaintiffs argue that the death penalty is inhumane and that no party has the right to deprive a person of their right to life, including the right to life of drug traffickers. Meanwhile, the decision of the Indonesian Constitutional Court No. 21/PUU-VI/2008 states that the death penalty included in the sanctions in the Narcotics Law no longer violates basic rights, namely the right to life as guaranteed by the 1945 Constitution because there is no form of torture before the death penalty, so that if the form of execution is in the form of shooting, it does not violate what is called the basic right, namely the right to life. The purpose of the death penalty is to provide a fear effect or discourage others from dealing with narcotics so that human rights remain safe and protected from any form of crime related to the abuse of narcotics and all forms of its negative impacts. The provision of a deterrent effect in the form of the death penalty is given as the last form of sanction to provide a deterrent effect, therefore the provision of a deterrent effect in the form of the death penalty is considered the most appropriate to be carried out so that someone does not think about committing such a very detrimental act. Even though there has been a lawsuit against the death penalty for narcotics traffickers because it is considered unconstitutional because it violates the right to life of a narcotics trafficker, in reality the rate of narcotics traffic remains quite high.⁷Based on the existing facts, it is clear that the death penalty, as the heaviest punishment in the criminal law system, has not been able to create a deterrent effect for perpetrators of narcotics trafficking, this results in difficulties for the state in suppressing the circulation of narcotics in the country.

⁷Putu Amalia Diva Prasista, Ketut Kasta Arya Wijaya, Luh Putu Suryani, "Imposing the Death Penalty on Narcotics Crime Perpetrators Related to Human Rights (Badung District Attorney's Study)", *Journal of Legal Construction*, Vol. 4, No. 2, 2023, p. 218.

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In the vortex of drug trafficking, it is not uncommon for women to be exploited by drug trafficking networks to help the flow of drug trafficking. This can be seen, for example, in the case of drug courier Rieka Merdeka Wati. Rieka, who is now a drug convict at the Padang Women's Correctional Institution (LPP), admitted that her actions as a drug courier were carried out because Rieka supported her parents and children. The 39-year-old woman was arrested in 2020. At Rieka's house, police found a small package of methamphetamine, also known as crystal methamphetamine, which she was about to deliver to someone. Previously, Rieka admitted that she had escaped carrying drug packages several times. As the sole breadwinner, she felt that being a courier was an easy way to provide for her family. Rieka said that she received IDR 6.5 million for every 10 grams that Rieka successfully delivered to customers. According to the Head of LPP Padang, Susi Pohan, approximately 70% of female inmates at the Padang City Women's Penitentiary are convicts in drug cases. Most of the perpetrators are housewives who want to earn easy income. If we look at the criminal threat in the original provisions 114 paragraph 2 in conjunction with Article 132 paragraph 1 of Law Number 35 of 2009 concerning Narcotics, according to these provisions, Rieka can be threatened with the death penalty, considering that the death penalty can be imposed on couriers who carry, store, and distribute narcotics weighing more than 5 grams.⁸

It is important to understand that women engage in drug trafficking due to the pressure of fulfilling economic needs. In this era of disruption and uncertainty, with a lack of decent employment opportunities for women, low social welfare for women, and increasing economic needs, these are issues that make economically oppressed women engage in drug trafficking under the pretext of high economic income. The imposition of the death penalty on women as drug couriers clearly ignores the factors that cause powerless women to become victims of exploitation by drug trafficking networks as couriers.

2. Research Methods

The approach method used is a qualitative method, namely a method that focusing on the general principles underlying the manifestation of units of symptoms that exist in human life, or the patterns analyzed are socio-cultural

⁸BBC News, "Increasing number of housewives involved in drug syndicates – Economic motives to 'emotional victimization'", <https://www.bbc.com/indonesia/articles/c5y0x8ye0lko>, accessed on May 12, 2026.

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symptoms with the culture of society concerned to obtain an overview of the prevailing patterns.⁹

3. Results and Discussion

3.1. Current Death Penalty Regulations for Narcotics Traffickers in Indonesia

Although the death penalty as the maximum penalty has been regulated in the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics, however, in the aspect of criminal procedural law, there are several regulations that can hinder the execution of the death penalty for perpetrators of narcotics trafficking. Narcotics dealers who have been sentenced to death by a court in the general court environment, and have had permanent legal force, can actually still take legal action, namely filing a PK (Judicial Review). PK is an extraordinary legal effort that can be filed by the convict or his heirs against a court decision that has obtained permanent legal force, except for a decision of acquittal or release from all legal charges. PK is regulated in Article 263 of the Criminal Procedure Code which states that:

- 1) An application for judicial review by the convict or his heirs as referred to in Article 260 paragraph (1) is submitted to the Supreme Court through the district court that has decided the case at first instance, clearly stating the reasons.
- 2) The application for judicial review as referred to in paragraph (1) must be submitted no later than 3 (three) months from the date the convict or his heirs become aware of the decision which has obtained permanent legal force.
- 3) The Supreme Court can grant or reject a request for judicial review.

A judicial review (PK) is not the only reason for postponing the execution of the death penalty for drug dealers; clemency can also be a reason to postpone the execution of the death penalty. A clemency application is essentially an effort made by convicts who have received a court decision with permanent legal force, in this case those sentenced to death, life imprisonment, or a minimum of 2 (two) years' imprisonment, and can only be submitted once. If the clemency is granted by the president, the criminal offense that ensnared the drug dealer can be removed, but if the clemency application is rejected by the president, the criminal offense that ensnared the drug dealer will continue according to the decision that

⁹Muhaimin, 2020, Legal Research Methods, University of Mataram, Mataram, p. 55.

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has permanent legal force. Clemency is one of the five rights held by the president in the judicial field whose existence cannot be disturbed by anyone.

The number of convicts in narcotics and psychotropic cases sentenced to death in 2019 and convicts with the same case in the previous year have not been executed, this is considering that the last execution of the death penalty for narcotics dealers was carried out on July 29, 2016 against 4 (four) convicts sentenced to death, namely Freddy Budiman (Indonesian citizen), Michael Titus Igweh (Nigeria), Humprey Ejike (Nigeria) and Gajetan Acena Seck Osmane (South Africa), and since the implementation of the death penalty there has been no further execution of the death penalty for narcotics dealers until now. This is because most perpetrators of narcotics trafficking crimes received clemency.¹⁰ Pardons are regulated in the Republic of Indonesia Law Number 5 of 2010 concerning Amendments to Law Number 22 of 2002 concerning Pardons. Article 1 of the Republic of Indonesia Law Number 5 of 2010 concerning Amendments to Law Number 22 of 2002 concerning Pardons states that:

In this Law, the following terms are defined as:

1. Pardon is a form of forgiveness in the form of a change, commutation, reduction or elimination of the execution of a sentence for a convict granted by the President.
2. A convict is someone who is punished based on a court decision that has permanent legal force.

Article 2 of the Republic of Indonesia Law Number 5 of 2010 concerning Amendments to Law Number 22 of 2002 concerning Pardons states that:

- 1) In the event of a court decision that has permanent legal force, the convict may submit a request for clemency to the President.
- 2) The criminal sentence for which a pardon may be requested as referred to in paragraph (1) is the death penalty, life imprisonment, or imprisonment for a minimum of 2 (two) years.

¹⁰Fachri Wahyudi, "Imposing the Death Penalty on Narcotics Dealers in Article 114 Paragraph (2) and Article 119 Paragraph (2) of Law Number 35 of 2009 concerning Narcotics from the Perspective of Human Rights and Islamic Law", *ijtihad*, Volume 15 Number 1, 2021, p. 177.

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- 3) The request for clemency as referred to in paragraph (1) may only be submitted 1 (one) time, except in the following cases:
- a. convicts whose application for clemency has been rejected and 2 (two) years have passed since the date of rejection of the application for clemency; or
 - b. convicts who have been granted clemency from the death penalty to life imprisonment and 2 (two) years have passed since the date the decision to grant clemency was received.

Article 3 of the Republic of Indonesia Law Number 5 of 2010 concerning Amendments to Law Number 22 of 2002 concerning Clemency states that "a request for clemency does not delay the implementation of the criminal sentence for the convict, except in the case of a death penalty decision."

Based on the various explanations that exist, it is clear that even though the crime of narcotics trafficking is a very serious crime and has an extraordinary impact on the destruction of the nation and state, and even though the threat of the death penalty has been regulated for perpetrators of narcotics trafficking crimes, the existence of PK and pardons is an extraordinary obstacle to the implementation of the death penalty for perpetrators of narcotics trafficking, this leads to the absence of a deterrent effect for drug dealers. This legal ambiguity is one of the reasons why the rate of drug distribution remains unstoppable in this country. This results in the goals of Indonesia's legal state being unable to be achieved effectively. According to Julius Stahl, the concept of the rule of law, which he calls "rechtsstaat", includes four important elements, namely:¹¹

- a) Protection of human rights.
- b) Division of power.
- c) Government based on law.
- d) State administrative court.

The seriousness of the state in protecting and upholding human rights is proven by the ratification of written legal regulations which include human rights both in the constitution where in the 1945 Constitution which has been amended, human rights are stated in articles 28 a to 28 j, then in the MPR Decree it is also realized

¹¹Utrecht, Introduction to Indonesian State Administrative Law, Jakarta: Ichtiar, 1962, p. 9.

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by ratifying Decree Number XVII/MPR/1998 concerning human rights, in the Law Number 39 of 1999 concerning Human Rights and Law Number 26 of 2000 concerning Human Rights Courts have also been ratified, as well as in implementing regulations for laws such as Government Regulations, Presidential Decrees and other implementing regulations. In addition, this seriousness can also be seen when the Indonesian government ratified and adopted international human rights instruments related to the protection of human rights, one of which was ratifying the International Covenant On Civil And Political Rights (ICCPR) into Law Number 12 of 2005 concerning the Ratification of the International Covenant On Civil And Political Rights, and ratifying the International Covenant On Economic, Social And Cultural Rights (ICSECR) into Law Number 11 of 2005 concerning the Ratification of the International Covenant On Economic, Social And Cultural Rights. The policies made by the state regarding the protection and respect for human rights make Indonesia a country that is serious in maintaining and protecting every existing human rights. In addition, in order to strengthen the guarantee of human rights enforcement in Indonesia, the National Human Rights Commission (Komnas HAM) was formed based on the Mandate of MPR Decree No. XVII of 1998 which was ratified on September 23, 1999.

However, in positive law Indonesia still recognizes the existence of the death penalty. As stated in the Criminal Code (KUHP) in Chapter II concerning crimes, where it is explained in Article 10 that various forms of punishment consist of principal and additional penalties. For the death penalty is included in the type of principal punishment that occupies the first place. Of course, regarding the death penalty that is still included in the Criminal Code which was created by the Dutch government even though in the Netherlands itself the death penalty has long been abolished, and there are still articles in the Law that regulate the death penalty, making the journey of Indonesian law not as smooth as expected, in the journey of Indonesian law encountered various obstacles where the emergence of polemics that colored the position of the death penalty in Indonesia.

The consequences of the illicit trafficking of narcotics have caused many deaths, the National Narcotics Agency (BNN) stated that 50 people in Indonesia die every day because of drugs. If this happens, then it can be imagined that there are many big criminals who can roam freely in society while spreading their crimes and also trying to save themselves by referring to human rights, so that the principle of the right to life can become inhumane and even become an enemy of humanity itself. In the end, there needs to be an understanding that the right to life does not apply unconditionally to people under all conditions, and there are exceptions to these rules and principles. First, regarding human rights in Article 28I paragraph (1) of

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the 1945 Constitution, there is an exception, namely Article 28J paragraph (2) of the 1945 Constitution which reads:

In exercising their rights and freedoms, every person is obliged to submit to the restrictions established by law with the sole purpose of guaranteeing recognition and respect for the rights and freedoms of others and to fulfill just demands in accordance with moral considerations, religious values, security and public order in a democratic society.

The inability of criminal law regulations to create a deterrent effect for perpetrators of drug trafficking will clearly make society, especially teenagers, vulnerable to negative exposure to narcotics. This will clearly damage the social, economic and future lives of the community, which are basic human rights that should be protected by criminal law.

The National Narcotics Agency (BNN) handled 9,348 cases in 2024. Throughout 2024, the Banjarmasin City National Narcotics Agency (BNN) recorded an increase in drug abuse cases, rising from 56 cases in 2023 to 58 cases in 2024, with the majority of users being methamphetamine (58.6 percent).¹² One of the biggest cases in Banjarmasin in 2025 was a narcotics case affiliated with death row convict Fredy Pratama, the first suspect with the initials SP was arrested on April 17, 2025 on Jalan Ahmad Yani Km 17, Banjarbaru, with evidence of 3,002.63 grams of crystal methamphetamine. Then the suspect HM was arrested on April 24, 2025 on Jalan Sungai Pahalau, Banjarmasin City, with evidence of 1,581.72 grams of crystal methamphetamine. Next, the suspect MF was arrested on April 25, 2025 on Jalan Trikora, Banjarbaru, with evidence of 3,918.20 grams of crystal methamphetamine and 10,049 ecstasy pills, as well as 24.14 grams of ecstasy powder. The fourth suspect with the initials MS was arrested on Jalan Martapura Lama, Banjar Regency, on April 25, 2025, with evidence of 209.28 grams of crystal methamphetamine. The Directorate of Narcotics Investigation stated that the four suspects were controlled by a network operator affiliated with Fredy Pratama, whose job was to control drug trafficking in Kalimantan and Sulawesi. The suspects have been detained and charged under Article 114 paragraph 2 of Law No. 35 of 2009 concerning Narcotics, which carries a minimum sentence of six years and a maximum sentence of 20 years, and a maximum fine of Rp 13 billion. In addition to the principal narcotics charges, investigators are also attempting to trace the

¹²BNN, "Narcotics Cases in Indonesia", <https://puslitdatin.bnn.go.id/portfolio/data-statistik-kasus-narkoba/>, May 12, 2025.

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flow of funds and assets of the drug network to prosecute money laundering (TPPU) charges.¹³

3.2. Reflecting on Justice for Women in the Death Penalty Regulation for Narcotics Trafficking Offenders

Based on the previous explanation, it is clear that women who engage in drug trafficking are inseparable from the pressure of fulfilling economic needs. In an era of disruption that is full of uncertainty with a lack of decent employment opportunities for women, as well as low social welfare for women, and increasing economic needs, it has become a problem that makes women who are economically squeezed engage in drug trafficking on the grounds of high economic income. The imposition of the death penalty on women as drug trafficking couriers clearly ignores the factors that cause women to be helpless and become victims of exploitation by drug trafficking networks as couriers. This can be seen, for example, in the case of Merri Utami (Mut), Merri was influenced by a man with the initials J who later became her partner. B and M, J's friends, entrusted a bag to Mut on the grounds that Mut's bag was already damaged. Mut did ask why the new bag was heavy. However, she finally remained silent when answered that the new bag was made of leather. When she arrived at Soekarno-Hatta airport, Mut was immediately arrested by Customs and Excise Service Office (KPBC) officers because her bag contained 1.1 kilograms of heroin. Mut was tricked and used to transport heroin. She enjoyed nothing, but was sentenced to death by the Tangerang District Court on May 20, 2002. The panel of judges led by Ade Komarudin stated that they found no mitigating circumstances for Mut. Therefore, MUT was sentenced to death. Mut made J her partner because J promised her that he would marry her and would provide a living of Rp1 million per week. This made Mut decide to be willing to have a serious relationship with J, but in reality, J as a drug dealer only used Mut as a drug courier.¹⁴

Indonesia is a nation founded on Pancasila, which upholds humanity, justice, and civilization. This means Indonesia is obligated to guarantee, protect, and respect human dignity and rights. The planned third round of executions, which Indonesia will soon carry out, could undermine the country's authority as a nation that upholds Pancasila as its foundation. Carrying out the executions will create a public

¹³Tribatanews, "South Kalimantan Police Uncover Drug Network Affiliated with Fredy Pratama", <https://tribatanews.sulut.polri.go.id/polda-kalsel-bongkar-jaringan-narkoba-terafiliasi-fredy-pratama/>, May 12, 2025.

¹⁴Hukumonline.com, "The Tragic Story of a Woman Convicted of Death for Drug Smuggling", <https://www.hukumonline.com/berita/a/kisah-tragis-perempuan-terpidana-mati-penyelundup-narkotika-hol7498/>, accessed on May 12, 2026.

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and international impression that Indonesia has failed to protect human rights. The National Commission on Violence Against Women (Komnas Perempuan) deeply regrets the execution plans, which appear to be carried out secretly and avoid public attention. Public opinion in the executions should be taken into account, one of the purposes being to alert the state to potential loopholes and errors in the judicial process.

The National Commission on Violence Against Women's findings indicate that women are highly vulnerable to being drawn into drug syndicates and used as couriers, through personal relationships, such as marriage or dating with syndicate members and then becoming couriers. This tactic is repeated in drug networks. The National Commission on Violence Against Women (Komnas Perempuan) believes it is crucial to encourage the public, government, and relevant parties to pay attention to and reconsider the "death penalty," particularly for vulnerable women in drug networks.¹⁵

It is important to understand that legal enforcement in drug cases must be more comprehensive, thorough, and multi-approached, and must meet the requirements of a fair trial and be able to recognize human trafficking within drug syndicates, where women are the targeted and victimized victims. Executions will only encourage drug syndicates because they fail to address the root of the problem. In principle, the National Commission on Violence Against Women strongly supports the government's efforts to eradicate drugs, which have destroyed the morality and future of the nation's generations. However, the National Commission on Violence Against Women also examined data from the Indonesian National Police's Criminal Investigation Agency, which stated that in 2015, the number of drug cases increased 15% compared to the previous year. This, in fact, was the same year that executions were carried out. This further proves that the death penalty is ineffective in breaking the chain of drug crime. The death penalty is not a solution to stop and combat drug crime. Because the target of executions is small-time couriers and vulnerable women who cannot afford proper legal defense. Regarding the planned execution of women exploited by drug trafficking networks, the National Commission on Violence Against Women states:¹⁶

¹⁵National Commission on Violence Against Women, "Postpone the Death Penalty, Discuss Sentencing That Resolves the Drug Problem in a Fair and Deterrent Way, Review the Death Penalty!", National Commission on Violence Against Women Press Release, <https://komnasperempuan.go.id/siaran-pers-detail/siaran-pers-komnas-perempuan-tunda-eksekusi-mati>, accessed on May 12, 2026.

¹⁶Loc, cit.

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- a. The Attorney General and the Ministry of Law and Human Rights must stop the planned third stage of executions and implement a moratorium on the implementation of the death penalty, carefully review all cases of death row inmates to ensure that the legal process is carried out honestly and fairly (fair trial);
- b. The National Commission on Violence Against Women supports the eradication of narcotics, but it must be done in ways that address the root of the problem and provide civilized and humane punishment;
- c. The death penalty has been abolished and opposition to it has been maintained in the draft Criminal Code Bill currently being discussed by the Indonesian House of Representatives (DPR RI) and the government. The death penalty is contrary to the country's constitution and human rights.
- d. Law enforcement officials should develop a multidisciplinary approach to investigating and prosecuting drug crimes, particularly those involving women. This will ensure that the crimes uncovered are more comprehensive and target the main perpetrators of drug syndicates, rather than victimized vulnerable groups.
- e. All women, especially migrant workers, are urged to be vigilant and careful about the traps of drug syndicates, especially through personal relationships and other means. The state must actively prevent and protect women from the vulnerabilities of these drug syndicates.

3.3. The Effectiveness of the Death Penalty in Eradicating Narcotics Crimes: Its Effect in Creating a Deterrent Effect Today

It is important to understand that women are merely victims of exploitation by drug trafficking networks. Therefore, the government must not simply impose the death penalty on female drug couriers, but must ensure that all drug networks in Indonesia are eliminated. The complexity and sophistication of drug syndicates cannot be resolved with the death penalty. Effective and humane methods are needed to eradicate drugs, including cleansing state institutions and law enforcement officers who are often suspected of being involved in drug trafficking by perpetrators from within prison. The advancement of this modus operandi clearly creates many challenges in eradicating narcotics in the country, including in the implementation of the death penalty for drug traffickers. The obstacles to implementing the death penalty for drug dealers who have victimized many women in Indonesia are:

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a. Legal Obstacles

Implementing the death penalty for drug dealers is not easy. Drug dealers who have been sentenced to death by a general court, and whose sentence has become legally binding, can still pursue legal action, namely by filing a judicial review (PK). A PK is an extraordinary legal remedy that can be filed by the convict or their heirs against a legally binding court decision, except for an acquittal or dismissal of all charges.

The material legal obstacle is the absence of digital regulation of narcotics distribution. Law Number 11 of 2008 in conjunction with Law Number 19 of 2016 concerning Electronic Information and Transactions and Republic of Indonesia Law Number 35 of 2009 concerning Narcotics. The law does not specifically regulate the distribution of narcotics electronically or through social media and the internet. This could lead to increased digital-based drug distribution, which is difficult to enforce. These circumstances will clearly result in a lack of deterrent effect for drug traffickers.

The various legal issues above are formal and material obstacles, formally the existence of PK and clemency can delay or even cancel the death penalty for narcotics dealers, while the material obstacle is the legal vacuum related to criminal penalties in digital narcotics distribution resulting in the absence of death penalty provisions for narcotics dealers which can result in the absence of a deterrent effect for perpetrators of narcotics distribution crimes.

b. Empirical Obstacles

Economic needs, which can be caused by drug dealers being addicts and thus needing drugs through their efforts to become dealers, or dealers purely seeking profit for their economic needs, have left dealers with no choice but to commit the crime of drug trafficking. This results in someone becoming a drug dealer not because of the intention to violate the law alone, but because of internal factors such as their living needs and the need to buy drugs because they have become addicts. This results in every drug dealer choosing to violate the provisions contained in the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics.¹⁷

¹⁷Muammar, "Criminological Study of Narcotics Distribution (A Study in East Aceh Regency)", *Jurnal Al-Ijtima'iyah: Media for Islamic Community Development Studies*, Vol. 5, No. 1, 2019, p. 48.

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4. Conclusion

Women are often tricked and exploited as drug couriers to provide profits for drug dealers, the death penalty often threatens women who are exploited as drug couriers, the government should review the criminal regulations, considering that women in this case are only victims of exploitation by the drug distribution network. The government should also not only apply the death penalty to women who are exploited as drug couriers, but also need to eradicate the main drug dealers to the drug producers, in reality the existence of PK and clemency is often the reason for delaying or even canceling the execution of the death penalty for drug dealers, so that drug dealers can have the opportunity to be free from the clutches of the law.

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