

Legal Analysis of The Death Penalty in Drug Crimes Case Study: (Supreme Court Decision Number 145 Pk/Pid.Sus/2016)

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Abstract. *Drug crimes are one of the extraordinary crimes that have a wide impact on health, social, and national security aspects. The Indonesian government has imposed strict criminal sanctions, including the death penalty, as an effort to create a deterrent effect on the perpetrators. The Supreme Court Decision Number 145 PK/PID.SUS/2016 in the name of Fredi Budiman is one of the prominent cases that shows how the death penalty is applied in large-scale drug trafficking cases. This study was conducted to analyze the legal basis for the application of the death penalty in this case. This study uses a normative legal method with a statutory approach and case studies. Data were obtained through a literature study covering statutory regulations, legal literature, and related court decisions. The analysis was conducted qualitatively by examining the consistency of the application of the law and the legal arguments used by the Supreme Court in sentencing the defendant to death. The results of the study indicate that the application of the death penalty in the Fredi Budiman case was based on the consideration of the severity of the social impact and the very large amount of narcotics. The Supreme Court considered the defendant's position as the main actor in an international narcotics syndicate and his active role in controlling drug trafficking in Indonesia. The application of the death penalty in this decision was considered to be in accordance with the provisions of applicable positive law and reflected the spirit of law enforcement against extraordinary crimes. The Supreme Court in its decision emphasized that the death penalty is still relevant to provide a deterrent effect and as an effort to protect society. However, there is debate about the effectiveness and fairness of the death penalty in the context of human rights and the possibility of improving the criminal justice system. This study recommends the importance of continuous evaluation of the application of the death penalty, especially in terms of accountability, proportionality, and guarantees of due process of law.*

Keywords: *Criminal Acts; Death Penalty; Drug Eradication; Narcotics.*

1. Introduction

Drug crimes in Indonesia have become one of the most profound and complex social

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problems. As a country strategically located between the continents of Asia and Australia, Indonesia faces a major challenge in eradicating the circulation of narcotics, both from abroad and those produced domestically. Based on data from the National Narcotics Agency (BNN), Indonesia is now listed as one of the countries with a fairly high number of drug users in Asia. This condition threatens the future of the younger generation and the sustainability of national development as a whole. In response to this phenomenon, the Indonesian government has taken various steps, both preventive and enforcement. One of the most controversial forms of enforcement is the imposition of the death penalty on perpetrators of drug crimes.¹

The death penalty is the most severe form of criminal punishment that can be imposed by the state on someone who is proven to have committed a certain crime. In the context of drugs, the death penalty is often an option for perpetrators involved in the distribution of large amounts of narcotics, which are considered to be able to damage the social and economic order of society. One case that has attracted public attention is the Supreme Court Decision Number 145 PK/PID.SUS/2016 involving one of the largest drug dealers ever in Indonesia, namely Fredi Budiman, a defendant who was sentenced to death by the Jakarta District Court for his involvement in an international drug network. The decision was a decision at the Judicial Review Level filed by Fredi Budiman²

This case began with the decision of the West Jakarta District Court Number 2267/Pid.Sus/2012/PN.JKT.BAR dated July 15, 2013, which sentenced Fredy Budiman to death for the crime of drug trafficking. This decision was then upheld by the Jakarta High Court through decision number 389/PID/2013/PT.DKI and the Supreme Court at the cassation level with decision number 1093 K/Pid.Sus/2014. However, the PK application filed by Fredy Budiman through Decision Number 145 PK/PID.SUS/2016 was also rejected, so the death sentence was still carried out.

The decision to impose the death penalty in a narcotics case such as that experienced by Fredy Budiman has raised various debates among the public and legal experts. Some argue that the death penalty is necessary to provide a deterrent effect and as a firm step in combating drug trafficking. However, on the other hand, there are also those who consider the death penalty to be ineffective and inhumane, as well as violating human rights. As a country that adheres to a criminal law system based on the principle of justice, Indonesia must carefully consider whether the death penalty is truly effective in dealing with the drug problem or actually worsens the situation.³

Fredy Budiman, the case that is the focus of this research, is one example of the many drug offenders who have been sentenced to death. This case stands out because Fredy Budiman is considered a major player in the international drug trafficking network, which has distributed thousands of kilograms of crystal methamphetamine to Indonesia. His role in the drug syndicate not only threatens public health, but also worsens Indonesia's image in the eyes of the world as a country trapped in drug

¹National Narcotics Agency, "BNN Annual Report 2023," (Jakarta: National Narcotics Agency, 2023).

²Decision of the Central Jakarta District Court No. 145 PK/PID.SUS/2016.

³National Commission on Human Rights, "Study on the Death Penalty in Indonesia," (Jakarta: Komnas HAM, 2022).

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trafficking. Therefore, the death penalty imposed on him is a symbol of the country's courage in eradicating drug crimes.

However, there are various legal issues that need to be discussed regarding the application of the death penalty in drug cases. One issue that arises is whether the death penalty really provides a deterrent effect on drug offenders, or instead makes things worse by creating the perception that the state cannot handle the drug problem in a more effective and humane way. In this case, the main question that arises is to what extent Indonesian criminal law, especially in drug cases, is in accordance with the principles of human rights and social justice.⁴

In addition, it is also important to consider whether the application of the death penalty to Fredy Budiman and other drug offenders has considered the principle of proportionality in criminal law. The principle of proportionality emphasizes that the punishment imposed must be in accordance with the level of crime committed, so as not to cause injustice. In this case, is the death penalty truly proportional to Fredy Budiman's role in the drug network, and are there alternative punishments that are more humane but still effective in overcoming drug crimes?

As part of the Indonesian criminal justice system, the decision taken by the court in the Fredy Budiman case needs to be analyzed carefully. Does the death penalty imposed meet the principles of justice? Does the court's decision reflect the main objectives of criminal law, namely to uphold justice, protect society, and prevent further crime? These questions need to be answered in order to provide a clearer picture of the effectiveness of the death penalty in drug cases, especially in the context of the Indonesian legal system.

In terms of international law, Indonesia must also pay attention to international conventions that regulate human rights, one of which is the abolition of the death penalty. Several countries have abolished the death penalty, especially for cases related to drugs. Therefore, it is important to evaluate whether the application of the death penalty in drug cases in Indonesia is contrary to the state's commitment to human rights and the principles contained in international conventions.

Furthermore, the drug problem in Indonesia is not only related to individuals sentenced to death, but also to a large network that regulates drug trafficking at the international level. The case of Fredy Budiman reveals how large and complex the drug syndicate operating in Indonesia is. This shows the need for international cooperation in eradicating drugs, as well as the importance of a more comprehensive approach in dealing with the drug problem. The death penalty may not be the most appropriate solution, but the participation of the community and international institutions is very much needed to create a drug-free environment.

One of the objectives of implementing criminal penalties is to provide a deterrent effect to the community so that they do not commit the same crime. However, in the case of drugs, can the death penalty really reduce the level of drug crimes in Indonesia? As a country with a fairly high level of drug trafficking, is the Indonesian legal system strict enough in providing punishments that are appropriate to the type and severity of drug

⁴Budi Santoso, *The Death Penalty Debate in Drug Cases in Indonesia* (Jakarta: Pustaka Yustisia, 2021).

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crimes committed? This study aims to answer these questions through an analysis of the Fredy Budiman case.⁵

Given the background of this problem, it is very important to study in depth the death penalty in the context of drug crimes, especially those that occur in Indonesia. Through a legal analysis of the Fredy Budiman case, it is hoped that a better understanding can be found regarding the extent to which the application of the death penalty in drug cases is effective in providing a sense of justice, as well as its implications for the Indonesian criminal law system as a whole.

Drug crime is one of the major problems faced by many countries, including Indonesia. Drug abuse not only damages the individuals directly involved, but can also destroy families, communities, and even countries. Narcotics and illegal drugs have a very broad impact, ranging from physical and mental health, to social and economic damage. Indonesia, as the country with the largest population in Southeast Asia, faces a serious threat related to drug abuse. Therefore, the Indonesian government is trying to overcome drug abuse through a firm and tough legal approach, one of which is by implementing the death penalty for perpetrators of drug crimes.

The case that is the focus of this analysis is the Supreme Court Decision Number 145 PK/PID.SUS/2016 involving one of the major defendants in a drug case who is facing the death penalty. Fredy Budiman is known as one of the international drug dealer networks involved in the distribution of large amounts of narcotics in Indonesia. In the court decision, Fredy Budiman was sentenced to death for his role in the distribution of drugs that are very detrimental to society. This case has raised various debates about whether the death penalty is the right step to overcome the drug problem in Indonesia or whether it actually worsens the situation.

It is important to analyze the application of the death penalty in drug crime cases, especially in the context of Indonesian criminal law. The death penalty in Indonesian criminal law is regulated in several provisions, but its use must be considered very carefully, considering the legal and social impacts it causes. Some argue that the death penalty for drug offenders can provide a deterrent effect, but on the other hand, there are also those who argue that this punishment is ineffective in overcoming the drug problem in Indonesia and is contrary to human rights principles.

In this analysis, the application of the death penalty to drug offenders will be discussed in detail, both in terms of philosophical, legal, and sociological foundations. This is important in order to fully understand the implications of the application of the death penalty in the context of combating drug trafficking in Indonesia.

The philosophical basis for criminal law enforcement in Indonesia can be found in the 1945 Constitution (UUD 1945), which regulates the basic rights of every citizen, including protection of the right to life. Article 28A of the 1945 Constitution states that "Everyone has the right to live and the right to defend his life and existence." However, the right to life is not absolute, because there are exceptions if the state faces an

⁵Institute for Legal Research and Development, *The Death Penalty in the Perspective of Indonesian Criminal Law* (Yogyakarta: Universitas Gadjah Mada Press, 2020).

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emergency or a threat to the survival of the nation and state.⁶

The application of the death penalty in drug cases, according to some circles, is part of the state's right to protect society from the threats posed by drug trafficking. Drugs are considered one of the major threats to the social, moral, and economic stability of the nation. Therefore, the use of the death penalty is considered a legitimate and necessary step to maintain the security and survival of the nation.

However, on the other hand, the application of the death penalty is also often debated with the argument that the state must protect the right to life of every individual. In this context, article 28I of the 1945 Constitution which states that "The right to life is an inviolable right," is the basis for those who oppose the death penalty. Thus, the conflict between the state's need to protect society and the individual's right to life is at the heart of the debate on this issue.

Legally, the application of the death penalty in drug cases is regulated in various Indonesian laws and regulations. Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics, for example, stipulates that perpetrators of drug crimes who are proven to have distributed large amounts of narcotics can be sentenced to death, life imprisonment, or a maximum of 20 years in prison. Articles 114 and 132 of the Narcotics Law state that anyone who distributes narcotics in a certain amount can be sentenced to death.⁷

In practice, the death penalty in Indonesia has been imposed on a number of major drug defendants, including Fredy Budiman. The verdict against Fredy Budiman has raised many questions regarding the effectiveness of the application of the death penalty as a solution to overcome drug trafficking. However, in practice, the decision has also caused controversy, especially regarding the application of the death penalty as a preventive measure. Is the death penalty really effective in suppressing drug trafficking, or does it actually worsen the problem?

In addition, in Indonesian criminal law, the death penalty must be imposed by the court through strict procedures and in accordance with the principles of justice. The verdict handed down to Fredy Budiman also reflects the complexity of the Indonesian criminal justice system, which must weigh many factors in determining the most appropriate type of punishment.

Sociologically, the drug problem in Indonesia has reached a very concerning level. According to data from the National Narcotics Agency (BNN), the number of drug abusers in Indonesia continues to increase from year to year, and Indonesia has become one of the largest markets for international drug trafficking.

The existence of a drug trafficking network involving individuals such as Fredy Budiman shows that drug crimes not only involve individuals but also large networks that have a broad impact on the social life of society.⁸

The drug problem is also closely related to poverty, social inequality, and lack of good

⁶1945 Constitution, Articles 28A and 28I

⁷Republic of Indonesia Law No. 35 of 2009 concerning Narcotics, Articles 114 and 132

⁸National Narcotics Agency (BNN) Data

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education. People who live in difficult economic conditions are often easy targets for drug networks to be used as couriers or dealers. In many cases, the victims of drug abuse are the young generation who should be the hope of the nation, but because of limited access to education and employment, they are trapped in the world of drugs.

On the other hand, the application of the death penalty to drug offenders also raises questions about how society views justice in such cases. Will the death penalty provide a deterrent effect for society or will it worsen the perception of the law itself? This idea is important to see whether the death penalty is truly the right solution in dealing with the drug problem in Indonesia.

The application of the death penalty to perpetrators of drug crimes, especially those involving major cases such as Fredy Budiman, is one way for the Indonesian state to tackle the increasingly worrying drug threat. However, this is not free from debates about justice, effectiveness, and the social impacts it causes. Therefore, there needs to be an in-depth study of how the Indonesian legal system can be more effective in dealing with drug trafficking, without ignoring human rights and the principles of social justice.

From the explanation above, the author would like to raise a study entitled "LEGAL ANALYSIS OF THE DEATH CRIMINAL IN DRUG CRIMES Case Study: (Supreme Court Decision Number 145 PK/PID.SUS/2016)".

2. Research Methods

The approach method used in this study is a normative (or normative juridical) and qualitative approach. The normative approach is used to analyze the applicable legal provisions regarding the death penalty in the context of drug crimes, while the qualitative approach is used to explore a deeper understanding of the implementation of the death penalty decision in the Fredy Budiman case. The normative juridical approach is used to analyze the application of the death penalty to perpetrators of drug crimes using 3 (three) main theories, namely the theory of legal certainty, the theory of criminal responsibility and the theory of justice. The Qualitative Approach is used to see the substantive values of justice, legal certainty and criminal responsibility in the decision against Fredy Budiman.⁹

3. Results and Discussion

3.1. Legal Construction of Drug Crimes According to Indonesian Criminal Law in Law Number 35 of 2009.

Indonesia as a country of law has a strong commitment to eradicating drug abuse and illicit trafficking. In this context, Law Number 35 of 2009 concerning Narcotics is the main legal instrument in regulating drug crimes, as part of a special criminal law that stands outside the Criminal Code (KUHP).

Law Number 35 of 2009 replaces Law Number 22 of 1997, with a spirit of more

⁹Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics, State Gazette of the Republic of Indonesia 2009 Number 143 published by the State Secretariat

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progressive and repressive legal reform in dealing with narcotics crimes which are considered extraordinary crimes. This is reflected in the structure of sanctions and the law enforcement approach which is firm but also includes a rehabilitative approach.

The legal construction in this law is built on the basis of the separation between drug users and dealers or producers. This is intended to differentiate legal treatment, where users are directed to rehabilitation while dealers and producers are subject to severe criminal sanctions.

The law categorizes narcotics into three groups based on their potential for addiction and medical value. Group I includes narcotics prohibited for medical purposes such as heroin and cocaine, while Groups II and III allow limited use for medical purposes under strict supervision.¹⁰

In substance, the criminal provisions in Law No. 35 of 2009 contain elements of formal crimes, meaning that the emphasis is placed on the act itself without having to prove the consequences caused. For example, the act of possessing, storing, or controlling narcotics without the right is sufficient to be subject to criminal penalties.

The articles in this law show a strict criminal system. For example, Article 112 regulates the possession of Class I narcotics that are not for oneself, and can be punished with a minimum of 4 years in prison and a maximum of 12 years.¹¹

The use of the term “without rights” or “against the law” is an important element in the evidence. This phrase indicates that only those who do not have permission under the law can be punished. This reflects the principle of legality and protection of the legitimate use of narcotics, such as for medical purposes.

In the realm of material criminal law, the construction of narcotics crimes reflects the application of strict liability, where malicious intent (*mens rea*) is not the sole determinant of sentencing, especially in cases of possession and control of narcotics.¹²

In addition, this legal construction also provides space for law enforcement officers to carry out more flexible investigation and inquiry actions. Articles 75 to 85 provide broad authority to investigators, including to conduct wiretapping, searches, and arrests based on intelligence information.¹³

Law enforcement against narcotics crimes is also inseparable from the role of prosecutors and judges who are required to be able to distinguish between users and dealers based on the evidence and witness statements available. This is a challenge in the criminal justice system in Indonesia.

In terms of evidence, the Narcotics Law allows the use of evidence in special ways, including reverse evidence for narcotics crime proceeds. This adopts the principle of non-conviction based forfeiture which emphasizes proving the origin of the wealth by the defendant.¹⁴

¹⁰See Article 6 and Article 7 of Law Number 35 of 2009 concerning Narcotics.

¹¹*Ibid.*, Article 112 paragraph (1).

¹²Muladi and Barda Nawawi Arief, *Criminal Theories and Policies*, (Bandung: Alumni, 2010), p. 135.

¹³Law Number 35 of 2009, Articles 75-85.

¹⁴Lilik Mulyadi, *Criminal Justice Practice: Theory and Practice*, (Jakarta: Sinar Grafika, 2013), p. 297.

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The restorative justice approach began to be introduced in the context of drug user rehabilitation. In this case, Article 54 and Article 55 provide a legal basis for diverting the criminal process into a form of medical and social rehabilitation through a judge's decision or a recommendation from an integrated assessment team.¹⁵

This rehabilitation is a form of progressive criminal law reform in Indonesia, with a public health approach to drug addicts, not just as criminals.

In the case of children involved in drug crimes, legal construction also takes into account the principle of child protection as regulated in the Child Criminal Justice System Law (UU SPPA). This emphasizes the importance of differentiating legal treatment based on age and level of involvement.

Narcotics crimes committed by law enforcement officers, including police officers, are subject to increased penalties based on Article 132 paragraph (2). This shows that abuse of authority for the purpose of distributing narcotics is seen as a serious violation of the integrity of law enforcement.¹⁶

The imposition of the death penalty on large-scale drug dealers also shows that the state views this crime as a serious threat to national security and the younger generation.

In its legal construction, Law No. 35 of 2009 accommodates various forms of crimes: formal crimes, material crimes, and continuing crimes, and also regulates corporate criminalization, indicating the expansion of the subject of criminal law in accordance with the development of the modus operandi of narcotics crimes.¹⁷

Narcotics crimes are also transnational organized crimes, so their handling is regulated within the framework of international cooperation as stipulated in Chapter XV of this Law.

Therefore, the legal construction in the Narcotics Law is comprehensive, covering aspects of prevention, action, rehabilitation, and international cooperation. This arrangement provides a strong basis for fair and just law enforcement.

Overall, Law Number 35 of 2009 reflects the state's commitment to handling narcotics crimes holistically while still upholding the principles of legality, justice, protection of human rights, and legal certainty.

3.2. Legal Considerations in the Application of the Death Penalty in Supreme Court Decision Number 145 PK/PID.SUS/2016 in the Name of Fredi Budiman

The application of the death penalty against Fredi Budiman is one of the important decisions of the Supreme Court in enforcing the law on narcotics crimes in Indonesia. This decision shows the courage of the Indonesian judiciary in facing extraordinary crimes that threaten the nation's generation.

In its ruling, the Supreme Court considered that Fredi Budiman's actions were classified as serious crimes because they involved an international network, were carried out in

¹⁵Law Number 35 of 2009, Articles 54-55.

¹⁶Ibid., Article 132 paragraph (2).

¹⁷Andi Hamzah, Special Criminal Law, (Jakarta: Sinar Grafika, 2009), p. 112.

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an organized manner, and had a wide impact on society and the state.¹⁸

Within the framework of national criminal law, the death penalty is the main penalty that can be imposed on perpetrators of certain crimes as regulated in Article 113 paragraph (2) of Law Number 35 of 2009 concerning Narcotics.¹⁹

Another consideration underlying the death penalty is the defendant's lack of remorse, as well as his status as a recidivist who had previously served a sentence for another narcotics case.²⁰

The court also considered that the crimes committed by Fredi Budiman had a direct impact on public health and had the potential to damage the morality of Indonesia's young generation.²¹

From a legal perspective, the judge views that imposing the death penalty fulfills the principle of proportionality, where the severity of the punishment must be commensurate with the level of seriousness of the crime committed.²²

In addition, the Court's considerations reflect the application of the *ultimum remedium* principle that has been passed, where previous rehabilitative efforts and alternative sentencing were ineffective against the defendant.²³

The aspect of justice is also an important consideration. In this context, justice is not only given to the accused, but also to the wider community as indirect victims of drug crimes.²⁴

The judge also considered Fredi Budiman's position as the main controller of an international narcotics network, who has the power to regulate the massive distribution of narcotics in Indonesia.²⁵

In legal considerations, the Court considered that the death penalty execution was a last resort to prevent drug crimes and provide a deterrent effect on other perpetrators.²⁶

In addition to the positive legal aspects, judges also pay attention to sociological aspects, namely the increasing illicit trafficking of narcotics in Indonesia which threatens national security stability.²⁷

From a legal philosophy perspective, the application of the death penalty reflects the enforcement of the values of order, justice, and legal certainty in the Indonesian criminal justice system.²⁸

Despite the debate regarding the death penalty as a form of human rights violation, the

¹⁸Supreme Court of the Republic of Indonesia, Decision Number 145 PK/PID.SUS/2016, p. 22.

¹⁹See Law Number 35 of 2009 concerning Narcotics, Article 113 paragraph (2).

²⁰Supreme Court Decision No. 145 PK/PID.SUS/2016, p. 24.

²¹*Ibid*, p. 25.

²²Muladi and Barda Nawawi Arief, *Criminal Theories and Policies*, (Bandung: Alumni, 2010), p. 83.

²³*Ibid*, p. 85.

²⁴Lili Rasjidi, *Basics of Philosophy and Legal Theory*, (Bandung: Citra Aditya Bakti, 2005), p. 67.

²⁵Supreme Court Decision No. 145 PK/PID.SUS/2016, p. 28.

²⁶*Ibid*, p. 30.

²⁷National Narcotics Agency, *BNN Annual Report 2016*, p. 18.

²⁸Satjipto Rahardjo, *Legal Science*, (Bandung: Citra Aditya Bakti, 2000), p. 54.

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Court emphasized that in the context of Indonesian positive law, the death penalty is still valid and can be applied with certain limitations.²⁹

The Court also refers to the doctrine of the Indonesian rule of law which upholds the supremacy of law, where every decision is based on applicable laws and regulations.³⁰

In terms of evidence, the Court confirmed that all elements of the crime as regulated in the Narcotics Law had been legally and convincingly fulfilled based on the evidence presented in the trial.³¹

This decision also confirms the role of the Supreme Court in maintaining legal consistency, especially against narcotics crimes that damage the legal and social order of society.³²

The Court considered that pardon or clemency cannot be granted automatically, especially if there is no strong reason to reduce the sentence imposed.³³

In addition, this decision sends a message that the law should not bow to external pressure, including pressure from the international community which opposes the death penalty.³⁴

The application of the death penalty in this case also shows that Indonesian criminal justice does not only emphasize the retributive aspect, but also preventive and repressive as a form of legal protection for society.³⁵

Thus, the legal considerations underlying the application of the death penalty to Fredi Budiman in Supreme Court Decision Number 145 PK/PID.SUS/2016 reflect the integration of legal certainty, justice, and utility in the Indonesian national legal system.³⁶

4. Conclusion

In substance, the criminal provisions in Law No. 35 of 2009 contain elements of formal crimes, meaning that the emphasis is placed on the act itself without having to prove the consequences caused. For example, the act of possessing, storing, or controlling narcotics without the right is sufficient to be subject to criminal penalties. The articles in this law show a strict criminal system. For example, Article 112 regulates the possession of Class I narcotics that are not for oneself, and can be punished with a minimum of 4 years in prison and a maximum of 12 years. The use of the term “without rights” or “against the law” is an important element in the evidence. This phrase indicates that only those who do not have permission under the law can be punished. This reflects the principle of legality and protection of the legitimate use of narcotics, such as for medical purposes. In the realm of

²⁹Jimly Asshiddiqie, *Introduction to Constitutional Law*, (Jakarta: Konstitusi Press, 2006), p. 102.

³⁰Hans Kelsen, *Pure Theory of Law*, (California: University of California Press, 1967), p. 215.

³¹Supreme Court Decision No. 145 PK/PID.SUS/2016, pp. 15–18.

³²*Ibid*, p. 31.

³³See Presidential Clemency Decision No. 10/G/2015.

³⁴Barda Nawawi Arief, *Legislative Policy in Combating Crime*, (Jakarta: Prenadamedia Group, 2013), p. 123.

³⁵Romli Atmasmita, *Reconstruction of Criminal Theory*, (Bandung: Mandar Maju, 2012), p. 112.

³⁶Supreme Court of the Republic of Indonesia, Decision Number 145 PK/PID.SUS/2016, Conclusion of Decision, p. 33.

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material criminal law, the construction of narcotics crimes reflects the application of strict liability, where malicious intent (*mens rea*) is not the sole determinant of sentencing, especially in cases of possession and control of narcotics. In addition, this legal construction also provides space for law enforcement officers to carry out more flexible investigation and inquiry actions. Articles 75 to 85 provide broad authority to investigators, including to conduct wiretapping, searches, and arrests based on intelligence information. The application of the death penalty in this case also shows that Indonesian criminal justice does not only emphasize the retributive aspect, but also preventive and repressive as a form of legal protection for society. Thus, the legal considerations underlying the application of the death penalty to Fredi Budiman in Supreme Court Decision Number 145 PK/PID.SUS/2016 reflect the integration of legal certainty, justice, and utility in the Indonesian national legal system.

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