

Urgency of the Death Penalty in Efforts to Create a Deterrent Effect in Eradicating the Crime of Narcotics Trafficking

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Abstract. *The type of research in this thesis is empirical research. Empirical law research is also called sociological law research, which is a legal research that studies law conceptualized as actual behavior, as an unwritten social phenomenon, experienced by everyone in social life. Based on the research results, it can be seen that the regulation of the death penalty for narcotics traffickers in Indonesia is currently regulated in Article 114 and Article 119 of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics, however, the existence of PK and pardons are often the reasons for postponing or even canceling the execution of the death penalty for narcotics dealers. The obstacles that result in the failure to realize the deterrent effect through the death penalty in eradicating narcotics crimes today are the formal legal weaknesses, namely the existence of PK and gerasi which can cancel and postpone the execution of the death penalty for narcotics dealers. The material legal weaknesses are in the form of 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 does not specifically contain regulations related to the distribution of narcotics electronically or through social media and the internet. This can be a source of increasing digital-based narcotics circulation that is difficult to prosecute. These various circumstances will clearly result in the absence of a deterrent effect for perpetrators of narcotics distribution. Empirical constraints in the form of economic needs that can be due to dealers being drug addicts so they need narcotics through efforts to become dealers, or purely dealers are only looking for profit for their economic needs, have resulted in dealers having no choice not to commit the crime of drug trafficking. The solution that can be done is to regulate the exception of granting pardons to drug dealers in the Republic of Indonesia Law Number 5 of 2010 concerning Amendments to Law Number 22 of 2002 concerning Pardons considering that drug trafficking is a serious problem that can damage the future of the nation and state. Specifically regulate the digital distribution of narcotics, so that drug dealers in the digital world can be subject to the death penalty as the maximum penalty with aggravation. The government needs to supervise the community, especially teenagers seriously, especially for people with weak economies regarding the existence of drug trafficking.*

Keywords: *Death Penalty; Deterrent Effect; Distribution; Narcotics.*

1. Introduction

The circulation of narcotics in the country is increasingly rampant in Indonesia, not only in Banyumas. The Narcotics Investigation Unit of the Banjarmasin City Police, South Kalimantan Police, uncovered the illicit circulation of 6.7 kilograms of crystal methamphetamine during Operation Antik Intan 2024, in addition to uncovering the crystal methamphetamine circulation case, the Banjarmasin Police also uncovered a case of circulation of ecstasy pills of the ineks type with evidence of 2,011 pills. Then members of the Banjarmasin Police confiscated 10.81 grams of ecstasy powder during Operation Antik 2024. One of the cases of drug dealers who were sentenced to death was the case carried out by Amsyah Yadi 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 to be distributed. 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 death penalty was inevitable.¹

In reality, the use of narcotics has negative impacts on users, namely:²

1. Physical Health

Drug use can cause serious physical harm. For example, opioid use can lead to decreased respiratory function, overdose, and death.

2. Mental Health

Drugs can have significant negative impacts on mental health. Long-term use can lead to anxiety disorders, depression, psychosis, and other mental disorders.

3. Dependence and Abuse

Most narcotics have strong addictive potential, so users can become dependent and find it difficult to stop using them.

4. Social and Economic Disruption

Drug abuse can damage social relationships and affect a person's productivity and performance at work or school.

5. Risk of Life and Crime

Illegal drug use often involves criminal activity, including the purchase, sale, and distribution of illegal drugs. In addition, drug use can increase the risk of involvement in violence, criminal

¹Kalimantan News Agency, "30 Kg of Crystal Meth Leads to Death, Prosecutor Demands Death Penalty for Drug Courier in Banjarmasin", <https://kbbk.news/30-kg-of-meth-ends-in-death-prosecutor-sue-drug-courier-in-banjarmasin-with-death-penalty/>, April 11, 2025.

²Kemenpanrb, "What are the negative impacts of narcotics?", accessed via <https://sippn.menpan.go.id/berita/84867/rumah-tahanan-negara-kelas-iib-tanjung/apa-saja-dampak-negatif-darinarkoba#:~:text=Kesehatan%20Fisik%3A%20Penggunaan%20narkoba%20dapat,yang%20signifikan%20pada%20kesehatan%20mental>, on May 12, 2024.

activity, and conflict with the law. Based on the high rate of drug trafficking and the health impacts of drug use, drugs cannot be underestimated. Drugs have become a very urgent national problem. According to Senior Commissioner of Police Riki Yanuarfi as Head of Public Relations of the National Narcotics Agency, Indonesia is currently entering a state of drug emergency. This condition is emphasized by the President's decision to impose the death penalty for drug convicts, both Indonesian citizens and foreign citizens. Riki then explained that the appropriate punishment for drug traffickers is the death penalty.³ The death penalty for perpetrators of drug trafficking is needed because the death penalty is the most severe punishment and is a means of punishment in creating a deterrent effect for extraordinary crimes that have a major damaging impact on the life of the nation and state.

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. Although the death penalty is a punishment imposed on perpetrators of narcotics crimes, 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 needed because for Yusril, extraordinary crimes by the state could not be tolerated, because they were related to the peace of the state. Achmad Ali expressed his opinion that the death penalty was very necessary and was applied through specifications and selectivity. The specifications for extraordinary crimes. And selectively, the convict must be in accordance with the facts of the trial to convince the judge that the perpetrator was him. As in his decision, the constitutional court judge concluded that the death penalty in the Narcotics Law at that time did not contradict human rights and the right to life as 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 did not adhere to the absolute principle.⁴

Those who oppose the death penalty for drug dealers 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 dealers. Meanwhile, the decision of the Constitutional Court of the Republic of Indonesia 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 basic rights, 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 forms 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 in order to provide a

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

⁴Christofel 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.

deterrent effect, therefore the provision of a deterrent effect in the form of the death penalty is considered the most appropriate so that someone does not think about committing such a very detrimental act. Even though there has been a lawsuit against the regulation of the death penalty for drug dealers because it is considered unconstitutional because it violates the right to life of a drug dealer, in reality the rate of drug dealers is still quite high. Based on the existing facts, it is clear that the death penalty as the most severe punishment in the criminal law system has not been able to create a deterrent effect for perpetrators of drug trafficking, this has resulted in difficulties for the state in suppressing drug trafficking in the country.

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 symptoms with the culture of the society concerned to obtain a picture of the prevailing patterns.*⁵

3. Results and Discussion

3.1. Current Death Penalty Regulations for Narcotics Traffickers in Indonesia

The development of narcotics in Indonesia is regulated in Republic of Indonesia Law Number 35 of 2009 Concerning Narcotics. Article 1 paragraph (6) of Republic of Indonesia Law Number 35 of 2009 Concerning Narcotics states that:

Illegal Trafficking of Narcotics and Narcotics Precursors is any activity or series of activities carried out without permission or against the law which is determined as a criminal act involving Narcotics and Narcotics Precursors.

Then Article 35 Republic of Indonesia Law Number 35 of 2009 concerning Narcotics states: The distribution of narcotics includes every activity or series of activities for the distribution or delivery of narcotics, whether in the context of trade, non-trade or transfer, for the benefit of health services and the development of science and technology.

Based on the above regulations, it is clear that the distribution of narcotics is divided into two, namely illegal or unlawful or illegal distribution of narcotics and legal distribution. The definition of illegal distribution of narcotics is regulated in Article 1 paragraph (6) Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics, while legally regulated in Article 35 of Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics.

Based on the explanation above, it shows that narcotics trafficking is all actions related to process, cycle, activity or series of activities that distribute/move something (goods, services, information, etc.), import, export, domestic sale and purchase as well as illegal storage and transportation of narcotics where the object of the object that is an element in this crime is narcotics in order to gain profit either economically or to be consumed illegally.

⁵Burhan Ashshofa, 1996, Legal Research Methods, PT. Rineka Cipta, Jakarta, p. 20-21.

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Based on this view, it is clear that the dictum of narcotics distribution is related to all illegal acts which include:

- a. Distributing/moving something (goods, services, information, etc.);
- b. Import;
- c. Export;
- d. Domestic buying and selling;
- e. Storage; and
- f. Transportation.

The dictum above shows that the circulation aspect using digital instruments has not been clearly regulated. This has resulted in the illegal circulation of narcotics through social media and the internet not being able to be contained properly. Meanwhile, Law Number 11 of 2008 Jo. Law Number 19 Number 2016 concerning Information and Electronic Transactions does not contain regulations related to the circulation of narcotics electronically or through social media and the internet. This can be a source of increasing digital-based narcotics circulation which is difficult to prosecute.

The National Narcotics Agency revealed that throughout 2019 until the end of 2020 there were as many as 33,371 narcotics cases with a number of evidence, namely marijuana narcotics totaling 112.2 tons, 5.01 tons of crystal methamphetamine, 1.3 million Ecstasy pills and 1.65 million PCC pills confiscated from a number of places throughout Indonesia. As for the narcotics case suspects who were successfully arrested by the BNN and the Police in 2019, there were 42,649 perpetrators. In addition, in 2019 the BNN managed to map 98 narcotics syndicate networks, as many as 84 narcotics syndicate networks have been successfully uncovered by the BNN. The 84 networks consist of 27 international drug syndicate networks, 38 domestic networks/new networks and 19 drug syndicate networks involving inmates/prisoners who act as network controllers in 14 Correctional Institutions. Of the 98 syndicates, 75 drug syndicate networks use cyberspace to distribute narcotics.⁶In other words, narcotics legal policy has not been able to keep up with the growth of society in the current digital era.

In the current era of globalization, in fact the boundaries between countries are increasingly blurred, although jurisdictionally they remain unchanged. However, criminals do not recognize territorial boundaries or jurisdictional boundaries. They operate from one country to another freely. If the era of globalization has only emerged or developed in recent years, criminals have long used the concept of globalization without being faced with legal guidelines, even what is happening in various countries in the world today, the law with all its limitations is a protector for these criminals. Globalization is a process of placing the world under the same unit without being limited by the lines and geographical position of a country, where through this process the world is finally no longer limited and the country is wide open to be entered by various statements that are channeled via telecommunications, such as the internet, print and electronic media, which finally this development allows interaction

⁶<https://bnn.go.id/konten/unggah/2019/12/DRAFT-LAMPRAN-PRESS-RELEASE-AKHIR-TAHUN-2019-1-.pdf>.

Accessed June 12, 2024.

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between one country and another, also makes interaction between humans possible in a short time.⁷

Such a situation is seen in the case of drug trafficking carried out by AY and ES in Sragen who made offers and distribution of narcotics through the Facebook network in a hidden manner. AY served as a digital social media operator while ES was the courier and the party who communicated with prospective buyers. Based on the investigation by the Sragen Police, evidence was finally found in the form of a computer device as a tool for offering and distributing narcotics as well as 4 grams of crystal methamphetamine. AKP Rini Pangestuti as Head of the Sragen Police Narcotics Unit explained that:⁸

The modus operandi of illegal drug trafficking today has used social media, this requires more advanced law enforcement facilities and infrastructure with a digital basis and greater community involvement.

The legal vacuum in the criminal law policy of drug trafficking is also seen in the decision Number: 133/Pid.Sus/2018/PN Rbi. The perpetrator's actions who also offered narcotics through social media were not a special study by the judge, the perpetrator was only charged with Article 127 Republic of Indonesia Law Number 35 of 2009 concerning Narcotics which reads:⁹

- 1) Any Abuser:
 - a) Class I narcotics for personal use are punishable by a maximum prison sentence of 4 (four) years;
 - b) Class II narcotics for oneself are punishable by a maximum imprisonment of 2 (two) years; and
 - c) Class III narcotics for personal use are punishable by a maximum prison sentence of 1 (one) year.
- 2) In deciding a case as referred to in paragraph (1), the judge must pay attention to the provisions as referred to in Article 54, Article 55, and Article 103.
- 3) In the event that the Abuser as referred to in paragraph (1) can be proven or proven to be a victim of Narcotics abuse, the Abuser is required to undergo medical rehabilitation and social rehabilitation.

Based on the various narratives above, it is clear that the progress of information and communication technology in the current digital era has also had an impact in the form of the development of the modus operandi of narcotics crimes that occur in society. According to the National Police Criminal Information Center, The Indonesian National Police have prosecuted more than 3,000 drug cases during September 2024. The number of people reported for drug cases is greater than the number of cases handled by the police. The Main

⁷Makbul Padmanagara, International Crime, Challenges and Solutions, Indonesia, Interpol Magazine, 2007, p. 58

⁸Interview with AKP Mohammad Luqman Effendi Head of the Sragen Police Narcotics Investigation Unit, on June 12, 2024

⁹ST. Aqmal, Manuscript of the Decision on the Case of Drug Distribution in Bima City, Downloaded via <https://putusan3.mahkamahagung.go.id/direktori/putusan/5a3c87e5251d39e7d5d7bb8f702e5ed6.html>, on June 12, 2024.

Secretary of the Indonesian National Narcotics Agency, Inspector General of Police Tantan Sulistyana, said that the evidence destroyed consisted of 15,486 kilograms of crystal methamphetamine and 48,574 ecstasy pills. The illicit goods came from three cases uncovered throughout August 2024. Since the beginning of 2024, the Indonesian National Police have prosecuted 33,924 cases of drug crime and trafficking. In September 2024, the number of drug crimes and trafficking cases handled by the National Police was 18.86 percent of the total number of drug crimes and trafficking cases handled in 2024. The number of drug cases handled in September 2024 increased by 1.51 percent from August 2024. The data was obtained from the EMP Pusiknas Bareskrim Polri which was accessed on Monday, September 30, 2024. The number of people reported in connection with drug cases was 4,865 people in September 2024. Sadly, the reported status as students and college students was 13.73 percent of the total number of reported in September 2024.¹⁰

Narcotics basically have an incredibly damaging impact, both for the individual user and for the nation and state. Compared to other age groups, the younger generation (15-35 years) has a higher risk of exposure to narcotics. This means that exposure to pollution is higher in the younger generation. Narcotics can have a negative impact on adolescents, such as reducing concentration and learning productivity, reducing the ability to distinguish between good and bad deeds, changing a person's behavior to be unwilling to socialize, increasing the risk of disease, mental disorders, and criminal acts. Good knowledge about narcotics also has a positive impact on the level of prevention of drug use. The use of narcotics can cause dependency syndrome, which causes behavior and cognition that are difficult to control and feelings to increase the dose, which can lead to a fatal overdose. The impact of narcotics on the health of users, most of whom are adolescents, can be concluded as follows:¹¹

a. Drugs affect the mental and physical health of adolescents. Drug use in adolescents can have negative impacts on physical and mental health. Drugs can cause or result in mental disorders such as depression, anxiety, mood disorders, psychosis, and increase the likelihood of dangerous behavior. In addition, drug use can harm physical health, such as reducing consciousness, damaging the immune system, increasing the risk of AIDS, heart failure, brain disorders, and digestive problems. For adolescents, drug use can also cause mental disorders such as depression, anxiety, and psychosis.

b. The Influence of Drugs in Education. Drug use in students can cause changes in appetite, insomnia, increased heart rate, slurred speech, loss of body coordination and so on. In addition, drug use can also affect academic or professional achievement, difficulty maintaining hygiene, significant weight loss, increased inclusive behavior, and problems at school. Drugs can even interfere with concentration, affect learning ability, and cause high school absenteeism. 3. The risk of committing crimes influenced by drugs. Involvement in crime is an activity related to drugs often broadcasts the law and can be punished. To reduce the possibility of violations of the law related to drug use, it is important to be aware of the

¹⁰National Education Center, For Drug Dealers and Distributors, BNN: Don't Play Around with the State, accessed via https://pusiknas.polri.go.id/detail_artikel/untuk_para_bandar_dan_pengedar_narkoba_bnn_don't_mess_around_with_the_country, on June 12, 2024.

¹¹Katryn NN. Pakpahan and Debora, "The Influence of Drug Abuse and Prevention among Adolescents in Indonesia", Qistina, Vol. 3, No. 2, 2024, p. 1867-1869.

dangers and threats associated with corruption. It is also important to get medical help and proper support for the recovery and rehabilitation of someone involved in drug problems. Drug use in adolescents can increase the likelihood of committing criminal acts. Adolescents who use drugs are at higher risk of developing problems such as depression, anxiety, bipolar disorder, and criminal behavior; drug use can also increase the likelihood of being involved in violence, criminal acts, and conflicts with the law. In addition, drug users tend to engage in illegal activities to obtain drugs, such as theft, fraud, and drug trafficking. Therefore, it is important to raise awareness about the dangers of drugs and provide education and support to prevent the negative effects of drugs on the younger generation.

c. Drugs make teenagers dependent and overdose. Teenage health can be affected by several types of drug dependence and overdose such as disorders of the nervous system (neurological) where drug use can experience seizures, hallucinations, impaired consciousness, and damage to the nerves. Dependence (addiction) can cause physical and psychological use of drug dependence.

d. The direct impacts are convulsions, hallucinations, aggressive behavior, chest tightness, hemoptysis, poor breathing, and fatigue are the side effects of drug use. The indirect impacts are that drugs can cause property and money to be drained, ostracized by the community, and removed from social circles.

The impact of narcotics based on the type of narcotics according to the National Narcotics Agency consists of:¹²

a) Depressant

It is a type of narcotic that inhibits brain function and slows down body activity. Users become sleepy, too calm and slow to respond. Pain and stress are temporarily lost. Examples: Morphine, heroin/putauw, alcohol.

1) Morphine

Morphine has the following effects:

- a) Euphoria or excessive pleasure;
- b) Creates tolerance and dependency;
- c) Causes withdrawal symptoms, namely pain, fever, sweating and shivering; and
- d) Death due to respiratory arrest.

2) Heroin (Putauw)

Heroin (Putauw) has the following effects:

- a) Euphoria or excessive pleasure;
- b) Creates tolerance and dependency;
- c) Causes withdrawal symptoms, namely pain, fever, sweating and shivering;
- d) Death due to alternating respiratory arrest can be caused by Hepatitis B, C and HIV/AIDS viruses;
- e) Impotence;

¹²National Narcotics Agency, *Drugs and Their Problems*, Deputy for Prevention of BNN, Jakarta, 2017, p. 9-17.

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f) Causes sakauw (withdrawal due to stopping the supply of heroin/putauw) with symptoms of nausea, fever, pain in the bones and joints, runny eyes and nose, excessive sweating and shivering.

3) Alcohol

The effects of alcohol include:

- a) Alcohol is absorbed by the body and enters the blood vessels;
- b) Loss of consciousness, drunk, staggering, slurred speech, violence, accidents due to drunk driving;
- c) Damages the liver, lymph nodes, peripheral nerves of the brain, heart disorders, cancer and babies born with birth defects from alcoholic mothers.

b) Stimulant

It is a type of narcotic that stimulates brain function and increases body activity. People become overly excited and alert due to increased body activity. Examples include cocaine, Amphetamine Type Stimulants (ATS), Methamphetamine (Sabu), ecstasy.

1) Cocaine

The effects of cocaine are:

- a) Euphoria (excessive feeling of joy/pleasure);
- b) Reduces the amount of dopamine or receptors in the brain; maximum of physical and mental strength;
- c) Behavior leading to violence;
- d) Weight loss, impotence, hallucinations (seeing or hearing things), paranoia (excessive suspiciousness);
- e) Damage to blood vessels in the brain which can lead to stroke or rupture of blood vessels in the brain;
- f) Still feel active even though your body is very tired;
- g) If the body can no longer bear the burden, it can collapse and die from exhaustion;
- h) *Overdose*, causing liver and lung damage and even death.

2) *Ecstasy (Designed Substance)*

Symptoms of ecstasy are:

- a) Emotional warmth increases;
- b) Intimacy increases;
- c) Decreased appetite;
- d) Sweating a lot;
- e) Uncontrolled body movements;
- f) Blood pressure rises;
- g) Heart rate and pulse increase rapidly;
- h) Hallucinations (tripping) in the form of scary floating feelings, seizures, panic, irritability and committing unreasonable violence.

c) Hallucinogen

It is a type of narcotic that comes from plants or is made through chemical formulation. The hallucinogenic effect can change and cause distortion of perception, thoughts and the

environment. Resulting in a sense of terror and sensory chaos such as "hearing" colors or "seeing" sounds, paranoia, increasing the risk of mental disorders. Examples of hallucinogens are marijuana plants and inhalants.

1) Cannabis Plant

The effects of the marijuana plant are:

- a) Decreased memory;
- b) Loss of control and balance;
- c) Marked changes in emotions or feelings;
- d) Restlessness, fear and hallucinations;
- e) Apathy and depression;
- f) Excessive anxiety and panic;
- g) Poor body balance and coordination.

2) Inhalants

- a) Shame is reduced;
- b) Sleepy;
- c) Headache;
- d) Nervous;
- e) Visual disturbances;
- f) Unaware of his surroundings;
- g) Death.

The government, society, and families must pay special attention to the problem of narcotics among adolescents. According to the report of the National Narcotics Agency's Research, Data, and Information Center, the prevalence of narcotics contributions increased from 1.80% to 1.95% in 2021. However, narcotics users decreased to 1.73%, or around 3.3 million people, in the period 2021–2023. This decline shows that more than 300,000 children in this country have managed to avoid the dangers of narcotics. In terms of psychology, internal and external factors often contribute to adolescent narcotics. Then according to the BNN in 2024, adolescents involved in drug abuse cases were 134 cases and in 2025 decreased to 35 cases. The internal factors in question are personal, family, and economic factors. While families that tend to be complicated and disharmonious can also cause someone to easily give up and get frustrated, poor financial factors can also cause someone to want to become a drug dealer or courier, while a teenager who is suggested to come from a rich and well-off family but lacks affection from his parents. The external factors referred to are factors outside of a person that can influence their actions, for example drug problems. These external factors can be divided into categories of social and community relationships. The only encouragement and impact that is strong enough to promote these drugs is from peer groups. The invitation can come from peers, especially teenagers who are not yet mature enough. However, a stable secondary environment and unwavering control can prevent invitations or encouragement to spread drugs among teenagers. Drug abuse can be triggered by peers, great curiosity, and a disharmonious family environment. Easy access and availability of drugs can also trigger someone to become a drug addict. Teenagers often smoke or drink alcohol as the beginning

of drug use. Ignorance about the adverse side effects of narcotics and psychotropic drugs can greatly influence the level of drug abuse.¹³

The issue of national security in its development cannot be separated from the issue of world political economy, starting with the monopoly of the world economy through imperialism and colonialism and military power over third countries to the monopoly of the world economic system in the era of globalization where technological progress and capital surplus occur which encourage developed countries to perpetuate the capital surplus by expanding the influence of economic intervention to third countries that have abundant natural resources and energy, more than that, currently the state borderless phenomenon has resulted in problems in the form of dependence between countries, both developed and developing countries, which have an impact on the stability of national and local policies, so that when a country's economic stability is disturbed, it will also cause other countries as a single organizational unit to also receive the impact, this leads to the instability of the security of a country and people in a country in various sectors where the economic sector in the form of poverty issues becomes the center of national security disturbances. Poverty and the destruction of the social order have resulted in the consumption of narcotics, especially among teenagers. This occurs as a chain effect of poverty and the destruction of the family's ethical order, as well as the pressures of economic life and low human resources due to the lack of access to adequate education, which are the main factors that cause someone to fall into the trap of narcotics.¹⁴ The advancement of communication facilities, information, and modes of transportation in the era of globalization has also triggered the rapid circulation of narcotics in this country.

In September 2024, the number of drug crime and trafficking cases handled by the National Police was 18.86 percent of the total number of drug crime and trafficking cases handled in 2024. The number of drug cases handled in September 2024 increased by 1.51 percent from August 2024. The data was obtained from the EMP Pusiknas Bareskrim Polri which was accessed on Monday, September 30, 2024. The number of people reported in connection with drug cases was 4,865 people in September 2024. Sadly, the reported status as students and college students was 13.73 percent of the total number of reported in September 2024. According to the Acting Head of the Banyumas BNN Wiki Sri Erlangga, the group that abuses drugs a lot in the Banyumas area is teenagers, Wiki added that teenagers, starting from students in grade 8 of junior high school, start drug abuse behavior first. Gradually, the dosage increased and he pursued narcotics.¹⁵ The circulation of narcotics in the country is increasingly rampant in Indonesia, not only in Banyumas. The Narcotics Investigation Unit of the Banjarmasin City Police, South Kalimantan Police, uncovered the illicit circulation of 6.7 kilograms of crystal methamphetamine during Operation Antik Intan 2024, in addition to uncovering the crystal methamphetamine circulation case, the Banjarmasin Police also uncovered a case of circulation of ecstasy pills of the ineks type with evidence of 2,011 pills.

¹³Katryn NN. Pakpahan and Debora, op., cit.

¹⁴ Kenichi Ohmae, The End of Nation State, The 1995 Panglaykim Memorial Lecture, Jakarta, 1995, p. 18.

¹⁵Pusiknas Polri, For Drug Dealers and Distributors, BNN: Don't Play Around with the State, accessed via https://pusiknas.polri.go.id/detail_artikel/untuk_para_bandar_dan_pengedar_narkotika_bnn_don't_mess_with_the_country, on October 3, 2024.

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Then members of the Banjarmasin Police confiscated 10.81 grams of ecstasy powder during Operation Antik 2024.¹⁶ According to the Padang Police Narcotics Directorate in 2024, evidence was found in the form of 601.31 kg of marijuana, 8,501.53 grams of crystal methamphetamine, and 1,564 ecstasy pills.¹⁷

Head of Public Relations of the National Narcotics Agency (BNN) Senior Commissioner of Police Sumirat Dwiyantoin The news report by VOA said that "Indonesia is one of the largest internet user countries in the world with the number of internet users reaching 40 million people".¹⁸ This is what is then used by international drug dealer syndicates as a medium to market narcotics online. For Indonesia, Sumirat said this mode is indeed new, but for a number of countries such as India and China, this mode has long been done.¹⁹ Then in 2020 there was a case of drug trafficking on Instagram with the name of the account owner "kuy ah", where on Instagram various weights of dried marijuana were offered under the name super tobacco. On June 20, 2020, the perpetrator was arrested by the National Narcotics Agency.

In its development, the circulation of narcotics via the internet first appeared after the police arrested a number of people who ordered packages containing narcotics online from Malaysia. This narcotics transaction case was the first case revealed by the police. Sumirat further stated clearly again that:²⁰

Most of the perpetrators of drug distribution via the internet use Facebook as a medium. The dealers use Facebook to make orders, communicate via Facebook, after a while I have this stuff and so on. Or they open a kind of "pharmacy", pharmacies as if they were selling official drugs. However, the goods must be sent through truly intact goods in the sense of via express package, official consignment, via post or courier and so on. So what needs to be understood is that the internet is only a means for ordering.

In its development related to national narcotics law regulations, there are still many weaknesses in the regulations both in the Narcotics Law and in other technical regulations such as SEMA.²¹ and SEJA.²² This can be seen from the use of inconsistent terms with each other to regulations that still tend towards prison sentences, especially for users who are not

¹⁶Antara, 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.

¹⁷Interview with AKP Martadius as Head of the Padang Police Narcotics Unit, April 20, 2025.

¹⁸Fathiyah Wardah in <https://www.voaindonesia.com/a/indonesia-suspected-of-being-targeted-by-online-narcotics-transactions--143476876/106349.html>, *Indonesia Allegedly Targeted by Online Narcotics Transactions*, Accessed March 12, 2020.

¹⁹ Location, cit.

²⁰Location, cit.

²¹Circular letter Supreme Court No. 4 of 2010 concerning the Placement of Abuse, Victims of Narcotics Abuse and Addicts into Medical Rehabilitation and Social Rehabilitation Institutions and Supreme Court Circular No. 3 of 2011 concerning the Placement of Narcotics Abuse Victims in Rehabilitation Institutions.

²²Circular Letter of the Attorney General Circular Letter of the Attorney General Number 002/A/JA/02/2013 concerning the Placement of Narcotics Addicts in Rehabilitation Institutions.

drug dealers. In practice, the view of Addicts and/or Victims of Drug Abuse as perpetrators of crimes is still more dominant compared to the health and healing approach to drug addiction. However, in reality, the shift in views from prison sentences to a health approach is often put forward by many groups and has finally become a trend in other countries.

Then secondly, from the law enforcement side, Indonesia still views drug use as a criminal act or legal issue, not as a health issue. Including children of drug addicts and/or victims of drug abuse who have to face legal issues while their health issues are neglected. Although there have been various regulations regarding children in conflict with the law, such as the Child Justice System Law (UU SPA) and the Child Protection Law, substantively the existing regulations have not fully protected the rights of child addicts and/or victims of drug abuse who are in conflict with the law.²³

In addition to the various problems above, in its development, Law Number 35 of 2009 concerning Narcotics has not clearly regulated the distribution of narcotics through internet facilities or advances in information and communication technology. Regulations related to narcotics distribution instruments through cyberspace or the internet are only regulated in the explanation of Article 75 letter (i) g-Law Number 35 of 2009 concerning Narcotics which states that:

In this provision, what is meant by "wiretaping" is an activity or series of investigation and/or investigation activities carried out by BNN investigators or Indonesian National Police investigators by using electronic devices in accordance with technological advances for conversations and/or sending messages via telephone or other electronic communication devices. Wiretaping includes electronic monitoring by means of, among others:

- a. installing a transmitter in the target room/chamber to listen to/record all conversations (bugging);
- b. installation of a transmitter on a car/person/item whose location can be tracked (bird dog);
- c. internet interception;
- d. cloning pagers, short message service (SMS), and faxes;
- e. CCTV (Close Circuit Television);
- f. suspect location tracker (direction finder).

The expansion of the definition of wiretaping is intended to anticipate the development of information technology used by perpetrators of narcotics and narcotics precursor crimes in developing their networks both nationally and internationally because technological developments have the potential to be exploited by criminals which greatly benefit them. To paralyze/eradicate narcotics and narcotics precursor networks/syndicates, their communication/telecommunication systems must be able to be penetrated by investigators, including tracking the existence of the network.

²³Correctional Database System of the Directorate General of Corrections, Ministry of Law and Human Rights of the Republic of Indonesia, <http://smslap.ditjenpas.go.id/public/krl/current/monthly/year/2016/month/9>, Accessed February 12, 2020.

Meanwhile, regarding the regulation related to the handling of narcotics trade and distribution in the community which is also included in the category of cyber crime, it is not regulated firmly and clearly in Law Number 35 of 2009 concerning Narcotics, regarding the use of the internet is only used in terms of regulation related to wiretaping alone. So that efforts to eradicate narcotics crimes use the alternative use of Law Number 11 of 2008 in conjunction with Law Number 19 of 2016 concerning Information and Electronic Transactions. In its development, Law Number 11 of 2008 concerning Information and Electronic Transactions has not yet covered all aspects of cybercrime. For example, Drug Traffickers, Narcotics transactions via the internet are still regulated using Law Number 5 of 1997 concerning Psychotropics and Law Number 22 of 1997 in conjunction with Law Number 35 of 2009 concerning Narcotics, while the law does not regulate firmly and clearly regarding the transaction of illegal drugs if it is carried out using the internet network.

So it is clear that Law Number 11 of 2008 in conjunction with Law Number 19 of 2016 has a weakness in the form of not specifically regulating matters concerning cyber crime. In the General Provisions Chapter, there is no clear description of crimes using computers. Computer crimes known in cyberspace are not clearly described. Including in this case the crime of drug abuse.

So it is clear that technological advances have resulted in the birth of new means in the occurrence of criminal acts including narcotics crimes which are currently often referred to as cyber crime. Therefore, the politics of narcotics criminal law should have changed its basic paradigm. So it is also clear that The problem of criminal acts that occur today must also be viewed from the perspective of justice in terms of the criminal justice system in this country. In addition, the lack of technical clarity in eradicating the circulation of narcotics through cyberspace also results in unclear coordination between related institutions. Sri Endah Wahyuningsih stated that there needs to be good coordination between existing law enforcement institutions regarding a problem of unlawful acts or crimes.²⁴

The death penalty for perpetrators of drug trafficking is needed because the death penalty is the most severe punishment and is a means of punishment in creating a deterrent effect for extraordinary crimes that have a major damaging impact on the life of the nation and state.²⁵ This 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:

In order to create a deterrent effect on perpetrators of abuse and illicit trafficking of Narcotics and Narcotics Precursors, regulations are made regarding the aggravation of criminal sanctions, both in the form of special minimum sentences, imprisonment of 20 (twenty) years, life imprisonment, or the death penalty. The aggravation of the sentence is carried out based on the group, type, size, and quantity of Narcotics.

²⁴Sri Endah Wahyuningsih and Agus Sunaryo, "The Role of Prosecutor Office in the Eradication of Corruption Criminal Acts in Indonesia", *Journal of Legal Reform*, Volume IV No. 2 May - August 2017, p. 248.

²⁵Muhammad Alief Yunas Pahlevi, Catur Wido Haruni and Said Noor Prasetyo, "Implementation of the Death Penalty Sanctions against Narcotics Crime Offenders in the Perspective of Responsive Law", *Rechtsidee*, Vol. 11, No. 2, 2023, p. 8-9.

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. Although the death penalty is a punishment imposed on perpetrators of narcotics crimes, 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.

3.2. Obstacles Related to the Failure to Realize a Deterrent Effect Through the Death Penalty in the Current Eradication of Narcotics Crimes

a. Legal Obstacles

Based on the various explanations above, it can be seen that the death penalty for drug dealers is regulated in Article 114 and Article 119 of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics.

Article 114

1) Any person who without right or against the law offers for sale, sells, buys, receives, acts as an intermediary in the sale and purchase, exchanges, or delivers Class I Narcotics shall be punished with life imprisonment or imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years and a fine of at least IDR 1,000,000,000.00 (one billion rupiah) and a maximum of IDR 10,000,000,000.00 (ten billion rupiah).

2) In the case of acts of offering for sale, selling, buying, acting as an intermediary in buying and selling, exchanging, handing over 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 non-plant form weighs 5 (five) grams, the perpetrator shall be punished with the death penalty, life imprisonment or imprisonment for a minimum of 6 (six) years and a maximum of 20 (twenty) years and a maximum fine as referred to in paragraph (1) plus 1/3 (one third).

Article 119

1) Any person who without right or against the law offers for sale, sells, buys, receives, acts as an intermediary in the sale and purchase, exchanges, or delivers Class II Narcotics shall be punished with imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years and a fine of at least IDR 800,000,000.00 (eight hundred million rupiah) and a maximum of IDR 8,000,000,000.00 (eight billion rupiah).

2) In the case of an act of offering for sale, selling, buying, receiving, acting as an intermediary in the sale and purchase, exchanging or handing over Class II Narcotics as referred to in paragraph (1) weighing more than 5 (five) grams, the perpetrator shall be punished with the 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 1/3 (one third).

The implementation of the death penalty for drug dealers is not easy in reality. Drug dealers who have been sentenced to death by a court in the general court environment, and have 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 permanent legal force, except for a verdict 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 when the convict or his heirs become aware of the decision which has permanent legal force.
- 3) The Supreme Court can grant or reject a request for judicial review.

The PK legal effort 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. The submission of clemency is basically an effort made by convicts who have received a court decision with permanent legal force, in this case those who are sentenced to death, life imprisonment or imprisonment of at least 2 (two) years, and can only be submitted 1 (one) time.

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 case 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 a minimum of 2 (two) years' imprisonment.
- 3) The application for pardon 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 a period of 2 (two) years has 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 postpone the implementation of the criminal sentence for the convict, except in the case of a death sentence". The existence of PK and clemency is often the reason for postponing the execution of the death penalty for drug dealers. PK can postpone the execution of the death penalty if it is granted and clemency according to Article 3 of the Republic of Indonesia Law Number 5 of 2010 concerning Amendments to Law Number 22 of 2002 concerning Clemency can postpone the execution of the death penalty since the clemency was requested.

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 does not specifically contain regulations related to the distribution of narcotics electronically or through social media and the internet. This can be a source of increasing digital-based narcotics circulation that is difficult to prosecute. These various circumstances will clearly result in the absence of a deterrent effect for perpetrators of narcotics distribution.

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

b. Empirical Barriers

The empirical obstacles to the death penalty in cases of drug trafficking are in the form of obstacles that cause the perpetrator to remain a dealer even though the perpetrator understands that the death penalty can be imposed on him. These obstacles are in the form of internal and external factors of the perpetrator:

1) Internal factors:

- a) Lack of individual knowledge about the impact of drug abuse on health, so that individuals are interested in consuming narcotics excessively or want to try being a drug dealer to get a lot of money.
- b) The individual's attitude is always negative and lazy, which causes counter-productive individuals to commit crimes to fulfill their addiction to narcotics.
- c) Weak supervision from an inharmonious family or family environment such as broken homes, divorced parents, which causes individuals to receive less attention, comfort and peace, resulting in individuals making the wrong choice of friends or joining in with bad friends.
- d) Emotional and mental release caused by being ostracized in social circles, heartbreak, and stress from life and work.²⁶

2) External Factors:

- a) The low economic or low income of the perpetrator is not comparable to the needs of the household or their own needs, so the perpetrator chooses the path of distributing narcotics so that the perpetrator obtains more income, because they see the opportunity for selling narcotics which is quite promising and provides large profits.
- b) The difficulty of getting a job and a very consumerist lifestyle means that perpetrators or some members of society are attracted to becoming drug dealers because the work is quite easy to do and makes a lot of money.

²⁶AW Widjaya, Problems of Juvenile Delinquency and Drug Abuse, Armico, Bandung, 1985, p. 25.

- c) Very sophisticated technology, making it easier for perpetrators of narcotics crimes to distribute narcotics anywhere and anytime without being caught by law enforcement.
- d) The influence of foreign communities or globalization has made the use and distribution of narcotics a current trend, so that Indonesian society is influenced to do the same thing.
- e) The existence of strategic geographical areas that support drug dealers to carry out narcotics distribution activities easily.
- f) Lack of supervision by the community and government has resulted in the illicit trafficking of narcotics and the population of narcotics addicts increasing and ultimately this situation is difficult to control.²⁷

Even though there are legal constraints, empirical constraints also have an important role in realizing the objectives of criminal law. The factor of a person's disobedience to the law is also the root of the problem which is no less important for the implementation of criminal law regulations that have been regulated. Factors Affecting Disobedience to the Law:²⁸

1) Lack of Legal Awareness:

Many people do not have sufficient knowledge of applicable laws and regulations, so they do not understand the importance of complying with the law.

2) Weak Law Enforcement:

If law enforcers are unable or unwilling to enforce the law consistently and fairly, then society will feel that the law is not working and there is no reason to obey it.

3) Public Distrust of Legal Institutions:

If people feel that legal institutions are unfair, corrupt, or ineffective, they will tend to lose trust and become more likely to break the law.

4) Individual Factors:

Several individual factors, such as selfishness, feeling always right, or being easily influenced by the environment, can drive someone to break the law.

5) Unclear Legal Substance:

If the applicable law is unclear, incomplete, or indefinite, then the public will have difficulty understanding how the law should be applied, and may feel that they cannot be blamed if they break it.

6) Lack of Education about Law:

Legal education is very important to increase legal awareness in society. If people do not have adequate legal education, they will not understand the importance of obeying the law.

7) Bad Environmental Influences:

A social and cultural environment that does not support compliance with the law can also trigger law-breaking behavior.

Economic needs that can be caused by dealers being drug addicts so they need drugs through efforts to become dealers, or dealers are purely looking for profit for their economic needs, have resulted in dealers having no choice not to commit the crime of drug trafficking. This results in someone becoming a drug dealer not because they intend to violate the law alone,

²⁷Muammar, "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.

²⁸*Location, cit.*

but because of internal factors in the form of their life needs and their need to buy drugs because they have become addicts. This results in every drug dealer choosing to go against the provisions contained in the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics.²⁹

The various obstacles mentioned above, in their development, have resulted in the objectives of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics, which are broadly the objectives of criminal law, not being able to be realized. According to the combined theory, the purpose of punishment is always to repay the criminal's mistakes and is also intended to protect society by creating order with the provision that the severity of punishment must not exceed the limits of just retribution. In essence, punishment always protects society and retribution for unlawful acts that punishment contains other things, namely that punishment is expected as something that will bring harmony and as an educational process to make people acceptable back in society.³⁰

3.3. Solutions Related to the Failure to Realize a Deterrent Effect Through the Death Penalty in the Eradication of Current Narcotics Crimes

Based on various explanations related to the obstacles that result in the failure to realize a deterrent effect through the death penalty in eradicating narcotics crimes at this time, these are:

- a. The formal legal weakness is the existence of PK and *genasi* which can cancel and postpone the execution of the death penalty for drug dealers.
- b. The material legal weaknesses are in the form of 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 does not specifically contain regulations related to the distribution of narcotics electronically or through social media and the internet. This can be a source of increasing digital-based narcotics circulation that is difficult to prosecute. These various circumstances will clearly result in the absence of a deterrent effect for perpetrators of narcotics distribution.
- c. Empirical constraints in the form of economic needs that can be due to dealers being drug addicts so they need narcotics through efforts to become dealers, or dealers are purely seeking profit for their economic needs, have resulted in dealers having no choice not to commit the crime of drug trafficking. This results in someone becoming a drug dealer not because they intend to violate the law alone, but because of internal factors in the form of their life needs and their need to buy narcotics because they have become addicts. This results in every perpetrator of drug trafficking choosing to go against the provisions contained in Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics.

Based on various obstacles, both legal and empirical, as mentioned above, the solution steps that can be taken are:

- a. Regulating the exception of granting pardons for drug dealers in the Republic of Indonesia Law Number 5 of 2010 concerning Amendments to Law Number 22 of 2002 concerning

²⁹*Location, cit.*

³⁰Djisman Samosir, 2010, *The Function of Prison Sentences in the Criminal System in Indonesia*, Binda Cipta, Bandung, p. 34

Pardons considering that drug trafficking is a serious problem that can damage the future of the nation and state.

- b. Specifically regulate the digital distribution of narcotics, so that narcotics dealers in the digital world can be subject to the death penalty as the maximum penalty with aggravation.
- c. The government needs to seriously supervise the community, especially teenagers, especially those in low-income communities regarding the circulation of narcotics.

4. Conclusion

The regulation of the death penalty for narcotics dealers in Indonesia is currently regulated in Article 114 and Article 119 of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics, however, the existence of PK and pardons are often the reason for postponing or even canceling the execution of the death penalty for narcotics dealers. The obstacles that result in the failure to realize the deterrent effect through the death penalty in eradicating narcotics crimes today are the formal legal weaknesses, namely the existence of PK and generasi which can cancel and postpone the execution of the death penalty for narcotics dealers. The material legal weaknesses are in the form of 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 does not specifically contain regulations related to the distribution of narcotics electronically or through social media and the internet. This can be a source of increasing digital-based narcotics circulation that is difficult to prosecute. These various circumstances will clearly result in the absence of a deterrent effect for perpetrators of narcotics distribution. Empirical constraints in the form of economic needs that can be due to dealers being drug addicts so they need narcotics through efforts to become dealers, or purely dealers are only looking for profit for their economic needs, have resulted in dealers having no choice not to commit the crime of drug trafficking. The solution that can be done is to regulate the exception of granting pardons to drug dealers in the Republic of Indonesia Law Number 5 of 2010 concerning Amendments to Law Number 22 of 2002 concerning Pardons considering that drug trafficking is a serious problem that can damage the future of the nation and state. Specifically regulate the digital distribution of narcotics, so that drug dealers in the digital world can be subject to the death penalty as the maximum penalty with aggravation. The government needs to supervise the community, especially teenagers seriously, especially for people with weak economies regarding the existence of drug trafficking.

5. References

Journals:

Christofel 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,

Master of Law, UNISSULA

Katryn NN. Pakpahan and Debora, "The Influence of Drug Abuse and Prevention among Adolescents in Indonesia", *Qistina*, Vol. 3, No. 2, 2024,

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

Muhammad Alief Yunas Pahlevi, Catur Wido Haruni and Said Noor Prasetyo, "Implementation of the Death Penalty Sanctions against Narcotics Crime Offenders in the Perspective of Responsive Law", *Rechtsidee*, Vol. 11, No. 2, 2023,

Sri Endah Wahyuningsih and Agus Sunaryo, "The Role of Prosecutor Office in the Eradication of Corruption Criminal Acts in Indonesia", *Journal of Legal Reform*, Volume IV No. 2 May - August 2017,

Books:

AW Widjaya, Problems of Juvenile Delinquency and Drug Abuse, Armico, Bandung, 1985,

Burhan Ashshofa, 1996, Legal Research Methods, PT. Rineka Cipta, Jakarta,

Djisman Samosir, 2010, The Function of Prison Sentences in the Criminal System in Indonesia, Binda Cipta, Bandung,

Kenichi Ohmae, The End of Nation State, The 1995 Panglaykim Memorial Lecture, Jakarta, 1995,

Makbul Padmanagara, International Crime, Challenges and Solutions, Indonesia, Interpol Magazine, 2007,

National Narcotics Agency, Drugs and Their Problems, Deputy for Prevention of BNN, Jakarta, 2017,

Internet:

Antara, 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.

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

Correctional Database System of the Directorate General of Corrections, Ministry of Law and Human Rights of the Republic of Indonesia, <http://smslap.ditjenpas.go.id/public/krl/current/monthly/year/2016/month/9>, Accessed February 12, 2020.

Fathiyah Wardah in <https://www.voaindonesia.com/a/indonesia-suspected-of-being-targeted-by-online-narcotics-transactions--143476876/106349.html>, *Indonesia Allegedly Targeted by Online Narcotics Transactions*, Accessed March 12, 2020.

<https://bnn.go.id/konten/unggah/2019/12/DRAFT-LAMPRAN-PRESS-RELEASE-AKHIR-TAHUN-2019-1-.pdf>. Accessed June 12, 2024.

Master of Law, UNISSULA

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

Kemenpanrb, What are the negative impacts of narcotics?, accessed via <https://sippn.menpan.go.id/berita/84867/rumah-tahanan-negara-kelas-iib-tanjung/apa-saja-dampak-negatif-darinarkoba#:~:text=Kesehatan%20Physik%3A%20Penggunaan%20narkoba%20dapat,yang%20signifikan%20pada%20kesehatan%20mental>, on May 12, 2024.

National Education Center, For Drug Dealers and Distributors, BNN: Don't Play Around with the State, accessed via https://pusiknas.polri.go.id/detail_artikel/untuk_para_bandar_dan_pengedar_narkoba_bnn_don't_mess_around_with_the_country, on June 12, 2024.

Pusiknas Polri, For Drug Dealers and Distributors, BNN: Don't Play Around with the State, accessed via https://pusiknas.polri.go.id/detail_artikel/untuk_para_bandar_dan_pengedar_narkotika_bnn_don't_mess_with_the_country, on October 3, 2024.

ST. Aqmal, Manuscript of the Decision on the Case of Drug Distribution in Bima City, Downloaded via <https://putusan3.mahkamahagung.go.id/direktori/putusan/5a3c87e5251d39e7d5d7bb8f702e5ed6.html>, on June 12, 2024.

Regulation:

Circular Letter of the Attorney General Circular Letter of the Attorney General Number 002/A/JA/02/2013 concerning the Placement of Narcotics Addicts in Rehabilitation Institutions.

Circular letter Supreme Court No. 4 of 2010 concerning the Placement of Abuse, Victims of Narcotics Abuse and Addicts into Medical Rehabilitation and Social Rehabilitation Institutions and Supreme Court Circular No. 3 of 2011 concerning the Placement of Narcotics Abuse Victims in Rehabilitation Institutions.

Interview:

Interview with AKP Martadius as Head of the Padang Police Narcotics Unit, April 20, 2025.

Interview with AKP Mohammad Luqman Effendi Head of the Sragen Police Narcotics Investigation Unit, on June 12, 2024