

Legal Analysis of the Death Penalty Sanctions for Narcotics Dealers in Law Enforcement in Indonesia Based on Legal Certainty

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Abstract. *This study aims to determine and analyze the construction of the imposition of death penalty sanctions on drug dealers in law enforcement in Indonesia. To determine and analyze the weaknesses of the death penalty sanctions against drug dealers in law enforcement in Indonesia today. This writing is a normative juridical type using the UU approach method, cases, research specifications are descriptive analysis, secondary data sources are taken from primary legal materials, secondary legal materials, tertiary legal materials, data collection methods through library studies and analysis techniques using qualitative. The study shows that the imposition of death penalty sanctions on drug dealers in law enforcement in Indonesia using the conditional death penalty mechanism with a 10-year probationary period, as regulated in Article 100 of the National Criminal Code, is not merely a technical change but an operationalization of the fundamental principles of ultimum remedium and proportionality, providing space for in-depth evaluation of the individual culpability of the accused while maintaining deterrence against serious crimes. Several weaknesses exist, including: first, substantive weaknesses in the law, including the dualism of the death penalty: between its deterrent effect and human rights, a lengthy and complicated legal process, and the uncertainty of the death penalty due to the possibility of probation. Second, structural weaknesses in the law include limited law enforcement capacity, systemic weaknesses and criminal networks, and a weak oversight system in correctional institutions. Finally, weaknesses in the legal culture include the absence of an integrated approach and early prevention, as well as the minimal deterrent effect on large drug networks.*

Keywords: *Certainty; Death; Legal; Narcotics; Penalty.*

1. Introduction

The Republic of Indonesia is a country based on law, based on Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. Indonesian positive law

regulates the crime of narcotics abuse in Law Number 1 of 2023 concerning the Criminal Code in conjunction with Law Number 1 of 2026 concerning Criminal Adjustments, in conjunction with Law Number 35 of 2009 concerning Narcotics.

Illicit drug trafficking not only damages the younger generation but also has multidimensional impacts on public health, social stability, and national resilience. To address this serious threat, Indonesia has implemented a strict criminal law policy, with the death penalty as the maximum penalty for drug offenders, particularly drug dealers and traffickers.¹

Giving the death penalty to drug dealers in accordance with the threat of Article 114 paragraph (2) of Law Number 35 of 2009 is appropriate and does not violate Human Rights. Because the death penalty imposed on one person who damages and destroys many people is better than him remaining alive but the destruction is even greater for other people in a country.

The enforcement of the death penalty for drug dealers must be carried out for the greater good of humanity, by killing one person can save many other people, so that killing drug dealers means protecting other communities from drug abuse due to their increasing circulation.

One example of a death row convict in a narcotics trafficking case (drug dealer) is FB, who was sentenced to death by a West Jakarta court judge with Decision Number 2267/Pid.Sus/2012/PN.JKT.BAR on July 15, 2013 and executed on Friday, July 29, 2016 at 00.45 in the morning in Nusakambangan, Cilacap, Central Java. The imposition of the death penalty for convicts in narcotics trafficking cases is regulated in Law Number 35 of 2009, Article 113 paragraph (2) and Article 114 paragraph (2).

The debate over the death penalty has become one of the most complex and controversial topics in the Indonesian criminal justice system. On the one hand, the death penalty is defended as the most stringent sanction to uphold justice for extraordinary crimes, including drug offenses. On the other hand, the development of a modern legal paradigm that emphasizes the principles of human dignity, the right to life, and proportionality in sentencing has encouraged the emergence of discourse on reforming the existence of the death penalty in the Indonesian legal system. From this debate, the idea of a "conditional death penalty" emerged, which now takes normative form through Articles 99 and 100 of Law Number 1 of 2023 concerning the Criminal Code (KUHP), and has undergone further adjustments in Law Number 1 of 2026 concerning Criminal Adjustments. This formulation of the conditional death penalty marks a fundamental shift (paradigm transformation) from absolute punishment to a

¹M. Rizky Ananda, Kusbianto, Andi Maysarah, Conditional Death Penalty Policy in Narcotics Crimes, Scientific Research Journal LAW_JURNAL, Volume VI, Number 2, February, 2026, p. 471

conditional, adaptive, and proportional punishment model that addresses social dynamics, morals, and the principles of restorative justice.²

The elimination of special minimum sentences in the Criminal Adjustment Law, the ultimum remedium framework, assumes that the death penalty is only appropriate for: first, perpetrators with dominant and strategic roles in structured multinational syndicates; second, those who demonstrate a systematic pattern of criminal enterprise and produce massive and measurable social harm; or third, those with serious prior convictions for previous drug crimes, demonstrating a dangerous pattern of recidivism. Conversely, small-time couriers or low-level dealers, even if proven to be involved in trafficking, would more appropriately receive a measurable prison sentence or even an alternative sentence.

The harmonization between *lex specialis* (Narcotics Law) and *lex generalis* (National Criminal Code) presents a complex normative challenge following the enactment of the Criminal Adjustment Law, because the Indonesian narcotics criminal law system now faces a dualism of norms that requires systematic and consistent harmonization in every judicial decision.³ On the one hand, the National Criminal Code places narcotics in Articles 609-611 with adjusted criminal penalties, including the death penalty for serious cases but with a clear mandatory 10-year probation; on the other hand, the Narcotics Law remains in effect with a structure of articles that still refers to the old formula of criminal penalties, even though several main articles (112, 113, 117, 118, 122, 123) have been revoked and replaced by the National Criminal Code in the Criminal Adjustment Law. A fundamental question arises with high urgency: when the prosecutor demands based on Article 114 paragraph (2) of the Narcotics Law (buying and selling class I narcotics weighing more than 5 grams, is threatened with the death penalty), should the judge actualize Article 100 of the National Criminal Code (10-year conditional sentence) in a mandatory manner, or can follow the structure of the threat that is still contained in Article 114 which still uses the old terminology "death penalty or life imprisonment or 5-20 years imprisonment"?

The principle of *lex specialis derogat lex generalis* states that special law (the Narcotics Law) precedes general law (the National Criminal Code) in cases of the same crime. However, in the post-January 2, 2026 implementation, this principle must be understood dynamically and contextually to avoid detrimental norm conflicts. The National Criminal Code serves as the *ius commune* (basic framework) that regulates all fundamental aspects of criminal law, while the Narcotics Law remains the *ius speciale* that provides specific regulations for narcotics crimes with special characteristics. However, when the Narcotics Law

²Baiti, AK The Death Penalty in the Perspective of Law Number 1 of 2023: A Legal Review of Alternative Sentencing Models. *Jurnal Hukum In Concreto*, 3(1), 2024, p. 114

³Dzikriyyan, M. Death Penalty with Probation (A Comparative Study of Legal Theory) [BS thesis, Faculty of Sharia and Law, UIN Syarif Hidayatullah Jakarta]. 2024, p. 251

does not explicitly accommodate the conditional sentence mechanism stipulated in the National Criminal Code, judges must carry out sophisticated harmonized interpretations to integrate the conditional provisions of the National Criminal Code without eliminating the substance of the threat of narcotics crimes that remain relevant.⁴The dramatically increased flexibility of judicial discretion that has come with the elimination of specific minimum sentences must be combined with sentencing guidelines (PERMA or SEMA) that provide standard common-law guidance to judges across the judiciary, preventing extreme disparities that undermine public confidence.

Based on the description above, the author will explain the problem formulation: first, the construction of the imposition of the death penalty on drug dealers in law enforcement in Indonesia. Second, the weaknesses of the death penalty against drug dealers in law enforcement in Indonesia today.

2. Research Methods

This research is a normative juridical type using the statutory approach method and case studies, the research specifications are descriptive analysis, data sources are obtained from secondary data taken through primary legal materials, secondary legal materials, tertiary legal materials, data collection methods through literature studies and analysis techniques using qualitative.

3. Results and Discussion

3.1 Construction of the Imposition of Death Penalty Sanctions Against Narcotics Dealers in Law Enforcement in Indonesia.

The issuance of Law Number 1 of 2026 concerning Criminal Adjustments marks a fundamental paradigmatic turning point in the hierarchy of Indonesian death penalty sanctions, moving the system from placing the death penalty as an absolute threat that can be executed immediately to a conditional sentence with a ten-year probationary period that provides evaluative space that has never been systematically formalized in the Criminal Code before.

This paradigmatic change places the death penalty in a new position as the ultimum remedium of last resort which can only be imposed when all other alternative punishments have been considered and are deemed disproportionate or incapable of achieving the objectives of punishment outlined in Article 54 of the National Criminal Code.⁵ In the context of narcotics crimes in particular, this

⁴LUKMAN, S. Legislation Legal Policy in the Formulating of Criminal Provisions as a Criminal Law Renewal Effort in Indonesia [Thesis, Hasanuddin University]. 2021

⁵NUZULA, RF (nd). A Constitutional Review of the Death Penalty for Narcotics Crimes in Indonesia from the Perspective of Fiqh Siyasah, BS thesis, Faculty of Sharia and Law, UIN Syarif Hidayatullah Jakarta. P. 172

transformation creates a very significant normative complexity because Law Number 35 of 2009 concerning Narcotics, as *lex specialis*, has placed the death penalty as the maximum threat for perpetrators of large-scale illicit trafficking, especially those who produce, import, export, or distribute class I or II narcotics with a weight exceeding a certain limit as regulated in Article 113 paragraph (2). Adjustments through Law No. 1 of 2026, which expressly removes special minimum penalties except for crimes classified as extraordinary, create a complex dualism of norms and require consistent harmonization in judicial practice, so that judges are now faced with a more challenging task to integrate the conditional provisions of the Criminal Code with the specific intent of the Narcotics Law while maintaining the proportionality and legal certainty that are so needed by society and the legal community.

The operational mechanism of the conditional death penalty in Article 100 of the National Criminal Code shows a progressive and multi-layered sentencing architecture, where the judge is obliged (shall) to impose the death penalty with a probationary period of 10 years by considering two alternative criteria: first, the defendant's sense of remorse and the existence of realistic hope to improve himself within the relevant time period, or second, the defendant's role in the crime is not dominant or not strategic in the organizational structure of the narcotics syndicate.⁶

During the 10-year probation period, calculated from one day after the verdict has permanent legal force (*inkracht*) (not from the time of the verdict in the first instance), if the convict shows commendable attitudes and actions as well as significant progress in rehabilitation, the death penalty can be converted to life imprisonment or 20 years imprisonment through a Presidential Decree after receiving substantive considerations from the Supreme Court.

This mechanism creates continuous monitoring of the behavior and changes in attitudes of convicts, which gradually changes the public perception of the nature of the death penalty from "ultimate execution" to "conditional sentence with periodic review opportunity." Furthermore, the system also regulates automatic conversion based on the principle of a *de facto* moratorium: if clemency is rejected and at the end of the probationary period no execution is carried out, the sentence by law changes to life imprisonment, creating a humane mechanism that also reflects the evolution of Indonesian human rights sensitivity towards the imposition of capital punishment.⁷ Conversely, if there is strong evidence that the convict has not shown any positive change in attitude, is still rebellious, or

⁶Permana, R. (nd). The Existence of the Death Penalty as an Alternative Sentencing for Narcotics Crimes Based on Law Number 1 of 2023 concerning the Criminal Code, thesis, Faculty of Sharia and Law, UIN Syarif Hidayatullah Jakarta,

⁷SURBAKTI, SP. Reconstruction of Regulations on Nominal Limits for Narcotics Addicts in the Implementation of Restorative Justice for Minor Narcotics Crimes Based on Justice Values, Thesis, Sultan Agung Islamic University, 2025

continues to engage in narcotics activities within the prison, then the execution can be carried out on the orders of the Attorney General based on recommendations from designated institutions, creating a balanced mechanism that maintains deterrence while still opening the door to rehabilitation.⁸

Another significant aspect that changes the landscape of sentencing is the elimination of the "immediate death penalty" option without trial in the National Criminal Code system, where Article 99 paragraph (1) confirms that the death penalty can only be imposed as an alternative to life imprisonment or a fixed-term prison sentence with a maximum of 20 years, meaning that there is no longer the option of "death penalty only" as the only option that can be given by the judge.

This normative construction ensures that every imposition of the death penalty inherently contains discretion for the judge to consider a lighter alternative punishment, in line with the principle of proportionality which is strongly emphasized in the context of contemporary criminal law reform in various countries and in international human rights standards that have been ratified by Indonesia, including the ICCPR.

Changes to the death penalty mechanism are based consistently on the principle of proportionality, which in the National Criminal Code is expressly articulated in Article 51 as an essential balancing principle between the gravity of the individual guilt of the accused and the objectives of punishment to be achieved through the imposition of the sentence.⁹

Proportionality in the context of conditional death penalty contains two complementary dimensions: the vertical dimension relates to the balance between the degree of individual culpability of the defendant (as measured by the level of personal responsibility, the motive for the crime, and the specific role within the organizational structure) and the threat of punishment imposed; while the comparative dimension concerns the consistency of similar and fair treatment of defendants with comparable profiles and situations, to avoid extreme disparities in sentencing and harm to public confidence in the justice system.

The 10-year probation mechanism itself is a reflection of the broader and deeper operationalization of proportionality, because by giving the accused a fair opportunity to demonstrate genuine behavioral changes over a sufficiently long period of time, criminal law no longer operates solely on a retributive paradigm

⁸Ilham Faturrahman Mohamad, The Transformation of the Paradigm of Conditional Death Penalty in Narcotics Crimes, *Al-Zayn: Journal of Social Sciences & Law*, Volume 4 Number 2, 2026, pp. 539-540

⁹Wirogioto, AJ, & SH, M. (nd). LEGAL CERTAINTY OF DEATH PENALTY EXECUTION FOR NARCOTICS CRIMES. Retrieved January 17, 2026, from <https://repository.ubharajaya.ac.id/28976/1/BUKU%20HUKUM%20PIDANA%20MATI%20ALI%20JOHARDI.pdf>

that focuses on pure revenge, but rather integrates more humanistic and future-oriented corrective, rehabilitative, and restorative dimensions.¹⁰

Article 100 paragraph (1) of the Criminal Code, which considers "feelings of regret" and "hope for self-improvement," reflects a fundamental shift from "capacity for punishment" to "capacity for rehabilitation," an orientation that is in line with international human rights instruments ratified by Indonesia and strongly emphasizes the preservation of human dignity and the individual's potential for change. Thus, the transformation of the conditional death penalty normatively reflects a broader shift in the Indonesian sentencing paradigm: from pure retributivism that emphasizes proportional retribution to an integrative corrective-restorative model, which emphasizes the improvement of the defendant and the restoration of social relations damaged by the crime.¹¹

In the context of narcotics operations, the placement of the death penalty as the *ultimum remedium* carries very important structural and practical implications, where the death penalty must be explicitly placed as a last resort that is only used when there are no other alternatives that can achieve the goals of punishment in a more proportional and effective manner. In every case that meets the threat of the death penalty, the judge has a strict obligation to actively and thoroughly consider whether the death penalty is truly proportional to the defendant's guilt, or whether the alternative sentence (life or 20 years) is sufficient to achieve the desired goal of justice, thus providing wider space for judicial discretion that is intelligent and sensitive to the factual nuances of each case.¹²

The placement of *ultimum remedium* strengthens the responsibility towards the principle of subsidiarity of punishment, meaning that punishment is the last criminal policy tool, after all efforts of prevention, diversion, restorative justice, and alternative punishment have been seriously considered by the judge. In narcotics practice, *ultimum remedium* has a dimension of differentiation of defendants which is very important, because the Narcotics Law distinguishes between producers/importers/exporters (the most responsible active subjects in the syndicate structure) and small-scale dealers/couriers (passive subjects or with limited responsibility who are often only involved for minimal economic compensation).

The elimination of special minimum sentences in the Criminal Adjustment Law, the *ultimum remedium* framework, assumes that the death penalty is only appropriate for: first, perpetrators with dominant and strategic roles in structured

¹⁰Mahmud, A. The problem of the death penalty for perpetrators of narcotics crimes in the Indonesian legal system. *Journal of Law & Development*, 51(2), 2021, p. 456

¹¹*ibid*

¹²Al-hamid, MS Determination of the Threat of Criminal Sanctions for Crimes that Obstruct the Judicial Process in Indonesian Legislation (Criminal Proportionality Theory Perspective, Thesis, Islamic University of Indonesia, 2023)

multinational syndicates; second, those who demonstrate a systematic pattern of criminal enterprise and produce massive and measurable social harm; or third, those with serious prior convictions for previous drug crimes, demonstrating a dangerous pattern of recidivism. Conversely, small-time couriers or low-level dealers, even if proven to be involved in trafficking, would be more appropriately sentenced to a measurable term of imprisonment or even an alternative sentence, especially if the openness to rehabilitation and social reintegration is present and appears genuine.

The Supreme Court Circular on Narcotics (dated January 6, 2026) explicitly instructs judges to use the grammage guidelines of SEMA No. 4 of 2010 which regulates the weight limits of narcotics for one day's use as one of several factors in distinguishing abusers from professional dealers, and to distinguish large-scale dealers from small-scale couriers with limited liability.

The harmonization between *lex specialis* (Narcotics Law) and *lex generalis* (National Criminal Code) presents a complex normative challenge following the enactment of the Criminal Adjustment Law, because the Indonesian narcotics criminal law system now faces a dualism of norms that requires systematic and consistent harmonization in every judicial decision.¹³ On the one hand, the National Criminal Code places narcotics in Articles 609-611 with adjusted criminal penalties, including the death penalty for serious cases but with a clear 10-year mandatory probation; on the other hand, the Narcotics Law remains in effect with a structure of articles that still refers to criminal penalties with the old formula, although several main articles (112, 113, 117, 118, 122, 123) have been revoked and replaced by the National Criminal Code in the Criminal Adjustment Law.

A fundamental question arises with high urgency: when the prosecutor demands based on Article 114 paragraph (2) of the Narcotics Law (buying and selling class I narcotics weighing >5 grams, is subject to the death penalty), should the judge actualize Article 100 of the National Criminal Code (10 years conditional sentence) in a mandatory manner, or can he follow the structure of the threat that is still contained in Article 114 which still uses the old terminology "death penalty or life imprisonment or 5-20 year imprisonment"?

The principle of *lex specialis derogat lex generalis* states that special law (the Narcotics Law) precedes general law (the National Criminal Code) in the case of the same crime, however in the implementation after January 2, 2026, this principle must be understood dynamically and contextually to avoid detrimental normative conflicts.

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¹³Dzikriyyan, M. Death Penalty with Probation (Comparative Study on Legal Theory), thesis, Faculty of Sharia and Law, UIN Syarif Hidayatullah Jakarta, 2024

the *ius speciale*, providing specific provisions for narcotics crimes with special characteristics. However, when the Narcotics Law does not explicitly accommodate the conditional sentence mechanism stipulated in the National Criminal Code, judges must carry out sophisticated harmonized interpretations to integrate the conditional sentence provisions of the National Criminal Code without eliminating the substance of the threat of narcotics crimes that remain relevant.¹⁴

The dramatically increased flexibility of judicial discretion that came with the elimination of specific minimum sentences must be combined with sentencing guidelines (PERMA or SEMA) that provide standard common-law guidance to judges across the judiciary, preventing extreme disparities that undermine public confidence.

The effectiveness of the death penalty as a deterrent in the narcotics context remains a significant empirical debate, as field data demonstrates mixed findings and results that fall short of initial expectations. On the one hand, classical deterrence theory suggests that the threat of severe punishment can deter individuals from committing crimes; however, more rigorous empirical research has shown skepticism regarding the deterrent effect of the death penalty in the narcotics context specifically. Data from the National Narcotics Agency (BNN) shows that despite the death penalty having been implemented since the 2009 Narcotics Law, the number of narcotics cases in Indonesia continues to increase consistently, reaching thousands of cases per year.

This phenomenon indicates that the threat of the death penalty has not succeeded in breaking up drug syndicates or significantly reducing market supply, because the economics of drug trafficking are so profitable that the risk-reward calculus remains favorable despite the risk of execution, enforcement is discontinuous and unpredictable, and the syndicate's organizational structure is rigidly hierarchical. The National Criminal Code, with its provision for the conditional death penalty, integrates the paradigm of rehabilitation and restorative justice into the criminal justice system, including for serious crimes such as narcotics, where research in criminology shows that rehabilitation programs have stronger empirical evidence in reducing recidivism than incapacitation or execution alone. The transformation of the conditional death penalty, if implemented consistently and supported by adequate institutional capacity-building in the Indonesian correctional system, can become a more sophisticated instrument in realizing proportional, humane, and effective justice in the contemporary Indonesian criminal justice system going forward.

¹⁴LUKMAN, S. Legislative Legal Politics in the Formulation of Criminal Provisions as an Effort to Reform Criminal Law in Indonesia, Thesis, Hasanuddin University, 2021

3.2 Weaknesses of the Death Penalty Sanctions Against Narcotics Dealers in Law Enforcement in Indonesia.

To understand more deeply why the death penalty has not been effective, this study identifies a series of interconnected inhibiting factors, encompassing structural, substantive, and cultural aspects. Based on this theoretical framework, the main obstacles to the effectiveness of the death penalty for drug trafficking crimes can be grouped and described as follows:

a. Weaknesses of Legal Substance

The weaknesses in the legal substance aspect are as follows:

1) The Dualism of the Death Penalty: Between Deterrent Effect and Human Rights

On the other hand, the imposition of the death penalty directly conflicts with the right to life, which is guaranteed as a non-derogable right. International legal instruments such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) affirm that the right to life is a fundamental right inherent in every individual.

2) A Long and Winding Legal Process

The lengthy and complicated legal process in death penalty cases also reduces their deterrent power. Many death penalty cases are delayed for years due to appeals, judicial reviews, and clemency requests. This long waiting period prevents the deterrent effect from being felt immediately, either by the perpetrator or by the wider community. Excessively long executions tend to make the case lose its urgency in the public eye and ultimately reduce the psychological pressure on other perpetrators.

After a death sentence is handed down by a court of first instance, the convict can still pursue ordinary legal remedies (appeal to the High Court and cassation to the Supreme Court) and extraordinary legal remedies (judicial review or PK to the Supreme Court). After all these remedies are rejected, the convict still has the final right to submit a pardon (request for clemency) to the President.

3) Uncertainty of the Death Penalty

The harmonization between *lex specialis* (Narcotics Law) and *lex generalis* (National Criminal Code) presents a complex normative challenge following the enactment of the Criminal Adjustment Law, because the Indonesian narcotics criminal law system now faces a dualism of norms that requires systematic and consistent harmonization in every judicial decision.¹⁵ On the one hand, the

¹⁵Dzikriyyan, M. Death Penalty with Probation (A Comparative Study of Legal Theory) [BS thesis, Faculty of Sharia and Law, UIN Syarif Hidayatullah Jakarta]. 2024, p. 251

National Criminal Code places narcotics in Articles 609-611 with adjusted criminal penalties, including the death penalty for serious cases but with a clear mandatory 10-year probation; on the other hand, the Narcotics Law remains in effect with a structure of articles that still refers to the old formula of criminal penalties, even though several main articles (112, 113, 117, 118, 122, 123) have been revoked and replaced by the National Criminal Code in the Criminal Adjustment Law. A fundamental question arises with high urgency: when the prosecutor demands based on Article 114 paragraph (2) of the Narcotics Law (buying and selling class I narcotics weighing more than 5 grams, is threatened with the death penalty), should the judge actualize Article 100 of the National Criminal Code (10-year conditional sentence) in a mandatory manner, or can follow the structure of the threat that is still contained in Article 114 which still uses the old terminology "death penalty or life imprisonment or 5-20 years imprisonment"?

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b. Weaknesses of Legal Structure

The weaknesses of the legal structure in the death penalty for drug dealers are as follows:

1) Limited Capacity of Law Enforcement Officers

The effectiveness of law enforcement depends heavily on the capacity of its officers. However, in the field, officers often work with various limitations. In terms of human resources, the number of investigators specializing in complex narcotics crimes is often disproportionate to the volume of cases handled. This

¹⁶LUKMAN, S. Legislation Legal Policy in the Formulating of Criminal Provisions as a Criminal Law Renewal Effort in Indonesia [Thesis, Hasanuddin University]. 2021

heavy caseload has the potential to degrade the quality of investigations and make the legal process less accurate. From a technological perspective, as revealed in interviews, the limited availability of modern forensic equipment and digital tracking technology poses a serious obstacle to dismantling networks that use sophisticated methods of operation, such as encrypted communications and complex cross-border financial transactions.

2) Weaknesses at the Systemic Level and Criminal Networks

The most fundamental and insurmountable weakness lies in the organized, transnational nature of drug crime, with its highly regenerative nature. The death penalty has proven to be a blunt instrument when confronted with a system, not just individuals. The fact that this punishment has not had a significant deterrent effect on large-scale drug networks is prime evidence of this. Individuals arrested and sentenced to death are generally mere pawns, easily sacrificed and replaced. Large-scale traffickers, with their financial clout and solid networks, have a remarkably rapid regenerative capacity. This phenomenon can be likened to the "Hydra Effect," where each time a head (network member) is cut off, new heads grow to replace it. When a courier is captured, the role can be quickly filled by another individual, often recruited from communities with high levels of social and economic vulnerability, such as the unemployed or those in debt.

As a result, the network's operational continuity is not significantly disrupted; the flow of narcotics distribution continues virtually unhindered. The death penalty becomes irrelevant as a threat to key controllers, who are securely located, often abroad, and beyond the reach of national legal jurisdiction. Ironically, even when key actors in the network are caught and imprisoned, this does not guarantee a halt to their operations. The phenomenon of controlling from inside the prison, or controlling the narcotics business from within correctional institutions, is clear evidence of the fragility of the law enforcement and internal oversight systems in prisons. This practice demonstrates that criminal sanctions, including the death penalty pending execution, are not always able to isolate and halt the influence of perpetrators.

3) Weak Supervision System in Correctional Institutions

Correctional institutions (Lapas), which should be the last bastion to isolate and halt a convict's criminal activity, have ironically become one of their most critical weaknesses. Ineffective supervision is a chronic problem caused by various factors. Overcrowding is the main issue, with the number of inmates far exceeding the ideal capacity and the number of supervisors. This situation makes detailed monitoring of each individual impossible. Furthermore, the involvement of corrupt officials makes prisons extremely vulnerable. It has been repeatedly found that drug convicts, including those sentenced to death, still have access to communication devices such as cell phones to maintain control of their networks

from within. This situation directly negates the purpose of punishment itself and renders the death penalty a substantive sanction. As long as drug dealers can continue to conduct their illicit business from behind bars, the death penalty will never be the end of their crimes.

c. Weaknesses of Legal Culture

Legal culture concerns societal attitudes toward the law and the legal system. Societal attitudes toward the law encompass beliefs, values, ideas, and expectations. The weaknesses of legal culture in imposing the death penalty for drug trafficking crimes are as follows:

1) The Absence of an Integrated Approach and Early Prevention

The most crucial weakness is that drug eradication policies still rely too heavily on a repressive approach (enforcement) and tend to neglect a balanced preventive and rehabilitative approach. The death penalty is only one downstream instrument, but the real problem lies upstream: socioeconomic factors such as poverty and unemployment, as well as low levels of legal education and awareness of the dangers of drugs in society. These factors make individuals vulnerable to recruitment into drug networks. Systematic and sustainable early prevention programs in schools, universities, and communities remain very limited. Massive drug campaigns are often ceremonial and lack substance. Furthermore, comprehensive rehabilitation programs for users, who should be viewed as victims, have not been a top priority. Without breaking the chain of demand and supply at its root through education, economic empowerment, and rehabilitation, any policy, no matter how harsh, including the death penalty, will always lag behind the perpetrators.

2) Lack of Deterrent Effect on Large Narcotics Networks

One of the most fundamental weaknesses is the fact that the death penalty has not had a significant deterrent effect on large-scale drug networks. As mentioned previously, individuals sentenced to death are generally only a small part of a larger criminal organization.¹⁷ Big dealers have a very fast regeneration ability; when a courier is caught and executed, his role can be immediately replaced by another individual who is often recruited from the lower economic classes. As a result, the continuity of the network is not significantly disrupted and the flow of narcotics distribution continues. 13. The death penalty becomes irrelevant as a threat to the main controllers who are in a safe position and are often difficult to reach by legal process. In fact, the phenomenon of controlling from inside the

¹⁷Parot Didgo Ismoyo, *Legal Research Methodology* (Depok: PT. RajaGrafindo Persada, 2019), p. 44.

prison or control from inside the prison is clear evidence that criminal sanctions, including the death penalty, are not always able to stop their operations.

4. Conclusion

The construction of the imposition of the death penalty on narcotics dealers in law enforcement in Indonesia using the conditional death penalty mechanism with a 10-year probationary period, as regulated in Article 100 of the National Criminal Code, is not merely a technical change but rather an operationalization of the fundamental principles of *ultimum remedium* and proportionality, providing space for in-depth evaluation of the individual culpability of the accused while maintaining deterrence against serious crimes. The weaknesses of the death penalty against drug dealers in law enforcement in Indonesia based on Lawrence M. Friedman's legal system theory are the first weakness of legal substance, including the dualism of the death penalty sanction: between the deterrent effect and human rights, the long and winding legal process, the uncertainty of the death penalty sanction due to the existence of probation. Second weakness of the legal structure, including the limited capacity of law enforcement officers, weaknesses at the systemic level and crime networks, weak oversight systems in correctional institutions. Finally, the weakness of legal culture includes the absence of an integrated approach and early prevention as well as the minimal deterrent effect for large drug networks.

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