
**REVIEW OF THE DEATH PENALTY AGAINST
PERPETRATORS OF NARCOTICS CRIME BASED ON SOCIOLOGY OF LAW**

Oleh

Kristiyadi¹⁾, Vincentius Patria Setyawan²⁾

¹Fakultas Hukum Universitas Sebelas Maret Surakarta

²Fakultas Hukum Universitas Atma Jaya Yogyakarta

E-mail : [1christiadisutirta@gmail.com](mailto:christiadisutirta@gmail.com), [2vincentpatria@gmail.com](mailto:vincentpatria@gmail.com)

Abstract

This article discusses the pros and cons of public views regarding the implementation of criminal sanctions for narcotics criminals in Indonesia. The study will focus on differences in public opinion in responding to the execution of the death penalty for narcotics criminals and efforts to formulate effective criminal penalties for drug crimes. The study in writing this article is based on the sociology of law, especially the theory of behaviorism and the theory of justice. In the perspective of the sociology of law, a sentencing device should include two things, namely: first, it must accommodate the aspirations of the people who demand retaliation as a balance on the basis of the level of guilt of the perpetrator. Second, it must include the purpose of punishment, namely to maintain and maintain community unity. Thus, the law must represent the community's sense of justice. Therefore, the attitudes and actions of people who choose the death penalty for narcotics criminals can be justified even though in other places the death penalty is abolished.

Keywords: Death Penalty, Narcotics Criminal Act, Sociology of Law.

INTRODUCTION

Criminal law is part of the overall law that applies in a country in outline will contain 3 (three) points, namely: prohibited acts and their sanctions, when and in what cases violators of the prohibition can be punished, and how to impose criminal sanctions on the violator.¹ According to this definition, criminal law is actually subdivided into material criminal law and formal criminal law. Material criminal law which is often referred to as the law of sanctions is that we can find its scope in the first and second points. Material criminal law includes prohibit acts and their sanctions, and when and in what cases violators of the prohibition can be punished.

The characteristic of criminal law as a sanction law is that it has cruel sanctions compared to other legal domains, such as civil law and state administrative law. Given the

severity of criminal sanctions, when compared to sanctions in other legal domains, the application of criminal law should be used as an *ultimum remedium* or last remedy, when other efforts have been taken but have not succeeded in resolving a legal problem. Apart from acting as an *ultimum remedium* or the last remedy, criminal law is also characterized as a double-edged sword, on the one hand it protects the victim, but on the other hand it will injure the perpetrator, both of whom here are on the same position, namely as citizens.

Criminal sanctions in criminal law are a tool and not a goal of criminal law. Sanctions in the form of a criminal if carried out are nothing but in the form of sorrow or suffering that causes discomfort to someone who is affected, namely the convicted person. While the main purpose of criminal law is to create order, which specifically is in the form of avoiding the

¹ Moeljatno, 2015, *Asas-Asas Hukum Pidana* (Edisi Revisi), Rineka Cipta, Jakarta, p. 1.

public from losses from protected legal interests.² Criminal sanctions as a tool and not a goal mean that the main purpose of the presence of criminal law in a country is to maintain order. In addition to maintaining order, the presence of criminal law is also to protect legal interests that are protected in society, namely life, body, property and decency. Meanwhile, the imposition of cruel criminal sanctions can threaten a person's body and life. This is what is called that criminal sanctions are not a goal, but a tool. the purpose of criminal law is not to impose sanctions but to use sanctions as a tool to achieve order, even though it hurts the perpetrators who are also members of the community.

The death penalty is a form of sanction in Indonesian criminal law. The death penalty is one of the cruelest forms of criminal sanctions carried out by eliminating the life of the convict. The regulation of the death penalty as a form of criminal sanction can be found in Article 10 of the Criminal Code (KUHP).³ The death penalty can be imposed by a judge by first considering wisely based on legal facts at trial and sufficient evidences to arrive at a verdict to impose a death penalty on a person.

Based on the cruel consequences of the death penalty, namely the loss of a person's life, the death penalty must be applied selectively. The death penalty was handed down to a defendant who was proven to have committed a serious and extraordinary crime. The parameter for determining this serious and extraordinary crime is seen from the consequences or losses caused by the crime. One of the crimes that are

classified as serious crimes is the illicit trafficking of narcotics which can damage the younger generation as the nation's next generation and can hinder national development. In addition to the large negative impact in the form of losses incurred from the crime of illicit narcotics trafficking, this crime is also categorized as a transnational or cross-border crime.

Based on UNODC's World Drug Report data released in 2020, it is stated that there are around 269 million people in the world who abuse narcotics (a 2018 study). This number increased by 30% from 2009 with the number of narcotic addicts recorded at more than 35 million people (the third booklet of the Word Drug Report, 2020). In addition, UNODC also reports that there will be a global phenomenon that as of December 2019 it has been found that more than 950 types of new substances have been added. Meanwhile in Indonesia, based on data from the National Narcotics Agency Laboratory Center until 2020, as many as 83 NPS have been detected, and 73 NPS of which have been included in the Minister of Health Regulation No. 22 of 2020 concerning Changes to the Classification of Narcotics.⁴

The Head of the Criminal Investigation Agency (Kabareskrim) of the Indonesian National Police, Komjen Agus Andrianto, revealed that narcotics trafficking and narcotics abuse in Indonesia is still quite high. Based on data from the Indonesian National Police (Polri) there were 24,878 people arrested from 19,229 cases in Indonesia from January to June 2021.⁵ This shows that the number of illicit narcotics

² Mustaghfirin dan Irwanto Efendi, Tinjauan Yuridis Terhadap Implementasi Pidana Korupsi Dalam Upaya Mengembalikan Kerugian Keuangan Negara, Jurnal Pembaharuan Hukum, Volume 2 No. 1 2015, hlm. 14

³ Article 10 of the Criminal Code defined: The crime sanctions consists of: a. principal punishment: 1. Death Penalty; 2. prison; 3. imprisonment; 4. criminal fines; 5. criminal cover. B. additional punishment 1. revocation of

certain rights; 2. confiscation of certain goods; 3. announcement of judge's verdict.

⁴ BNN, Press Release Akhir Tahun 2020; "Sikap BNN Tegas, Wujudkan Indonesia Bebas Dari Narkoba", <https://bnn.go.id/press-release-akhir-tahun-2020/> diakses pada tanggal 19 Desember 2021 Pukul 11:01 WIB

⁵ Kompas, 24.878 Orang Ditangkap Terkait Kasus Narkoba di Indonesia sejak Januari 2021, Kompas.com publish 14 Juni 2021,

trafficking in Indonesia in 2021 is still likely to be high, although when compared to the previous year there was a decline. According to data from the National Narcotics Agency, the trend of the number of suspected narcotics cases has tended to decline since 2018. The National Narcotics Agency (BNN) reported that the number of suspects in national narcotics cases was 1,307 people (833 cases) in 2020. This number decreased by 13.16% from the previous year, which is 1,505 people.⁶

Based on these data, the application of the death penalty is one form of effort that shows the seriousness of the government towards handling illicit narcotics trafficking in this country. This includes the imposition of the death penalty that has been carried out on Freddy Budiman. The death penalty imposed on Freddy Budiman and several other defendants in narcotics trafficking cases is a form of deterrence so that traffickers and drug dealers feel deterred from doing so and as a form of warning for narcotics perpetrators who are currently still on the loose. Based on data from the National Narcotics Agency, as of 2020, there were 132 accused who were sentenced to death penalty in narcotics trafficking cases, and most of these verdicts had permanent legal force (*inkracht*).

The imposition of capital punishment for convicts of narcotics illicit trafficking has been regulated in Article 113 paragraph (2) and Article 114 paragraph (2) of Law Number 35 of 2009 (hereinafter referred to as the Narcotics Law). The imposition of capital punishment if viewed from the harmonization of positive legal legislation, is contrary to human rights as regulated in Article 4 of Law Number 39 of

1999 concerning Human Rights (hereinafter referred to as the Human Rights Law). Because human rights are against killing, the Criminal Code and Indonesian laws and regulations explain that: Article 10 of the Criminal Code determines the types of crimes, one of which in Article 1 letter a number 1 explains that one of the crimes is the death penalty. This shows that the death penalty in Indonesia is still a dilemma because human rights also stipulate that every human being has the right to life and livelihood.

When viewed from the aspect of criminal law, according to the Narcotics Law the death penalty also applies, while according to human rights it fully protects humans.⁷ Is the death penalty suitable for drug traffickers, while on the other hand, the state recognizes the right to life as one of the absolute human rights that must be defended and guarded for the sustainability of human life.

There is a lot of debate over the implementation of the death penalty for criminals in Indonesia discussed even though similar debates have occurred repeatedly over the years previously. Several years ago, in August 2016 the death penalty for the perpetrators the illicit trafficking of narcotics has been carried out one year earlier, on January 18, 2015, to be exact. Similar sentences were also handed down to six drug offenders.⁸

Human rights activists complain about the imposition of criminal sanctions that are considered contrary to human rights. Therefore they asked the Indonesian government to stop the imposition of the death penalty in Indonesia. Criticism also does not only come from within the country, but also from neighboring countries whose citizens are subject to the death

<https://megapolitan.kompas.com/read/2021/06/14/16303771/24878-orang-ditangkap-terkait-kasus-narkoba-di-indonesia-sejak-januari>, diakses pada tanggal 19 Desember 2021 Pukul 11:12 WIB.

⁶ Databoks, BNN Catat Jumlah Tersangka Narkotika Tanah Air Sebanyak 1.307 Orang pada 2020, <https://databoks.katadata.co.id/datapublish/2021/12/14/bnn-catat-jumlah-tersangka-narkotika-tanah-air>

[sebanyak-1307-orang-pada-2020](#), diakses pada tanggal 19 Desember 2021 Pukul 11:14 WIB.

⁷ Masyhur Effendi dan Taufan Sukmana, 2010. Hak Asasi Manusia dalam Dimensi/Dinamika Yuridis, Sosial, Politik, Ghalia Indonesia, Bogor, hlm. 36.

⁸ Agus Purnomo, 2016, Hukuman Mati Bagi Tindak Pidana Narkotika di Indonesia: Perspektif Sosiologi Hukum, *De Jure : Jurnal Hukum dan Syari'ah*, Vol. 8, No. 1, 2016, hlm

penalty such as Australia. Australia has even threatened to ban its citizens from going to Indonesia if Indonesia continues to practice the death penalty. Different attitudes towards the implementation of the death penalty have actually existed for a long time and exist in several countries. In Indonesia, for example, the implementation of the death penalty is still legally recognized and applied, although its intensity fluctuates. Until 2006 there were 11 laws and regulations that still carried the death penalty, such as: the Criminal Code, the Narcotics Law, Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, Law Number 15 of 2003 concerning the Eradication of Terrorism, and Law No. Law Number 26 of 2002 concerning Human Rights Courts.

The diversity of reactions and opinions towards the death penalty is due to differences point of view of the death penalty. Those who support implementation the death penalty argues that: first, it is a permanent punishment or death penalty can eliminate criminals from the lives of people in need tranquility and serenity; second, the death penalty has a retributive effect that can provide a sense of justice, especially to victims and their families who experience suffering; Third, the death penalty has a preventive impact on other members of the community who wish to commit a crime; Fourth, the death penalty is not a prohibited act by religion although it still has strict requirements.⁹

Meanwhile, those who do not agree with the death penalty have the opposite opinion. Among the arguments put forward are: first, the death penalty has negated the possibility that humans can change, repent and realize their mistakes to do better; second, the death penalty cannot be corrected if there is an error in the its application. Therefore, the death

penalty is very possible to be imposed on people who actually not guilty, if it turns out that in the judicial process there are procedures that are lacking appropriate; Third, the death penalty will give strong suffering to the family death row inmates because psychologically the family will be burdened with feelings of waiting against the execution of the death penalty.¹⁰

In addition, they also argue that international law, in this case the Universal Declaration of Human Rights prohibits the implementation of the death penalty. Clearly, Article 3 of the Universal Declaration of Human Rights states that "everyone has the right to life, liberty and security of person". Because everyone is guaranteed the right to live, it means that one cannot take the life of another person. formal, human rights reasons, and justice reasons. From this identification, this article examines the issue of the death penalty in terms of the reasons for each party, especially in terms of the sociological theory of law. In detail, the issue is focused on differences in public opinion in responding to the execution of the death penalty for drug offenders and efforts to formulate effective criminal penalties for drug crimes in Indonesia. In this context, the choice of the sociology of law theory in observing legal issues is also reinforced by the fact that law is not always orderly, logical and rational, but also experiences a shift towards a non-systemic paradigm (disorder of law).¹¹

RESEARCH METHODS

Writing this journal applies the library method or normative legal research methods, namely research with presents a problem that will be discussed later by using legal theories that are in accordance with the legislation. The type of approach used is a statutory approach

⁹ Arie Siswanto, 2009, Pidana Mati dalam Perspektif Hukum Internasional, Jurnal Refleksi Hukum, April 2009, p. 11.

¹⁰ *Ibid*, p. 10.

¹¹ A. Mukthie Fadjar, *Teori-Teori Hukum Kontemporer* (Malang: Setara Press, 2014), 32.

that refers to regulations, conceptual approaches related with legal principles, and a comparative approach by comparing the law of a country with the law other countries. Collection of legal materials, the author uses a library technique. Analysis on this article uses a description technique on primary legal materials and secondary data that have been collected are then associated with theory and legal literature so that it can assist in writing this article.

DISCUSSION

Enforcement of Death Penalty in Indonesia

The death penalty is the toughest sanction of all crimes that are threatened against criminals. The death penalty, hereinafter referred to as the death penalty, is one of the main punishments imposed by judges on convicts who have obtained permanent legal force.¹² The death penalty according to the doctrine states that the death penalty is justified if the perpetrator of a crime (crime) has shown from his actions that he is an individual who is very dangerous to society. Therefore, it must be made powerless again by being expelled from society or from social life.

The death penalty is the most severe punishment imposed on convicted criminals. Various serious crimes can be considered by the judge to be given a severe sentence (death penalty) if it can be proven in court in accordance with sufficient evidence and leads to the defendant. The types of crimes that can be imposed with severe punishment or the death penalty contained in the Criminal Code and outside the Criminal Code are as follows:

a. In Indonesian Criminal Law Code (KUHP)

The Indonesian Criminal Code regulates the possibility of imposing the death penalty for some serious crimes. What is meant by serious crimes are:

1. Article 104 (treason against the president and vice president);
2. Article 111 paragraph (2) (persuade foreign countries to be hostile or to fight, if the hostilities are carried out or become war);
3. Article 124 paragraph (3) (helping the enemy during war);
4. Article 140 paragraph (3) (treason against kings or heads of friendly countries that is planned and results in death);
5. Article 340 (premeditated murder);
6. Article 365 paragraph (4) (theft with violence resulting in serious injury or death);
7. Article 368 paragraph (2) (extortion with violence resulting in serious injury or death);
8. Article 444 (piracy at sea, coast and river resulting in death).

b. Outside Indonesian Criminal Code (KUHP)

In addition to crimes regulated in the Criminal Code, criminal law laws outside the Criminal Code also regulate the death penalty. These regulations include:

1. The Military Criminal Code (KUHPM); Article 64, Article 65, Article 67, Article 68, Article 73 1, 2, 3, 4, Article 109 1 and 2, Article 114 paragraph (1), Article 133 paragraph (1) and (2), Article 135 paragraph (1) 1 and 2, paragraph (2), Article 137 paragraph (1) and (2), and Article 142 paragraph (2);
2. Article 1 paragraph (1) of the Emergency Law Number 12 of 1951 regarding firearms, ammunition or any explosive material; Article 1 paragraph (1);
3. Article 2 of Law Number 5 (PNPS) of 1959 concerning the authority of the Attorney General/Army Attorney General and concerning aggravating the threat of punishment for crimes that endanger the implementation of clothing and food equipment;

¹² Pasal 1 ayat 3 Peraturan Kepala Kepolisian Republik Indonesia Nomor 12 Tahun 2010 tentang Tata Cara Pelaksanaan Pidana Mati.

4. Article 2 of Law Number 21 (Prp) 1959 concerning aggravating the threat of punishment for economic crimes;
5. Article 13 of Law Number 11 (PNPS) of 1963 concerning the eradication of subversion activities;
6. Article 23 of Law Number 31 of 1964 concerning the basic provisions of atomic energy;
7. Law Number 4 of 1976 concerning aviation crimes and crimes against aviation facilities/infrastructure. Regarding the death penalty for aviation crimes, crimes against aviation facilities/infrastructure in the Criminal Code are regulated in article 479;
8. Law Number 31 of 1999 concerning Corruption Eradication;
9. Law Number 26 of 2000 concerning Human Rights Court.
10. Law Number 15 of 2003 concerning the Eradication of Criminal Acts of Terrorism.
11. Law Number 35 of 2009 concerning Narcotics.

The death penalty in Indonesia has been going on for a long time, since the Indonesian nation was colonized by the Dutch, until now it is still enforced even though the Netherlands has abolished the death penalty starting in 1987. The Criminal Code (*Wetboek Van Strafrecht*) was passed on January 1, 1981. According to experts At that time, the death penalty was maintained because special conditions in Indonesia demanded that the biggest criminals could be fought with the death penalty. With such a large area with a heterogeneous population, the State Police's tools cannot guarantee security.

Although the death penalty is still in progress and has not been abolished in Indonesia, the public has different opinions in responding to it as many countries abolish the death penalty. On the one hand, there are

community groups expressing their support that the death penalty is still needed in Indonesia, especially when it is still legally recognized. Meanwhile, on the other hand, there are community groups who want the death penalty to be abolished. They argue that the death penalty provisions that apply in Indonesia are not in accordance with the fundamental principles of this country, namely the 1945 Constitution.

According to the results of the Indo Barometer national survey conducted on 15-25 March 2015, the majority of the public in Indonesia, around 84.1 percent, agreed with the death penalty for drug dealers. "For those who agree, the reason that is widely expressed is that drugs damage the younger generation (60.8%), and can cause a deterrent effect (23.7%). As for the public who did not agree, the reason that was often revealed was because according to them there are other types of punishment that are more humane (36.2%), while the death penalty is actually a violation of human rights (28.4%). Meanwhile, continued Qodari, most or around 84.6% of Indonesians support President Jokowi's steps in implementing the death penalty for drug dealers, while only 10.3 percent do not support it. The majority of the public (86.3%) stated that President Jokowi should continue to carry out the death penalty for drug convicts, even though it implies that other countries will cut off diplomatic relations and stop economic cooperation with the State of Indonesia.¹³

Differences of opinion about the death penalty also occur among members of the National Human Rights Commission (KOMNASHAM). Their attitude towards the death penalty is also divided into two, some are pro and some are con. The death penalty in Indonesia must be maintained or abolished. For those who are pro, the heaviest sentence

¹³ <https://www.beritasatu.com/nasional/268928/survei-86-rakyat-dukung-hukuman-mati-pengedar-narkoba>, diakses pada 19 Desember 2021 Pukul 19:00 WIB

imposed by the Panel of Judges on the convict is still needed, especially for violent crimes. For those who contra, the death penalty is considered unconstitutional or contrary to the constitution or the 1945 Constitution, especially the right to life for every citizen.

For those who agree, arguing that whether or not the death penalty is unconstitutional has actually been answered in the decision of the Constitutional Court on the petition for a judicial review of Law Number 22 of 1997 concerning Narcotics against the 1945 Constitution. The judicial review was submitted by 4 (four) death row convicts in this case. narcotics through their legal counsel regarding the unconstitutionality of the death penalty as enshrined in Law No. 22 of 1997 concerning Narcotics. Based on the decision of the Constitutional Court, it is expressly stated that the death penalty in Law Number 22 of 1997 concerning Narcotics is not contrary to the Constitution. Thus, it can be concluded that by analogy, the death penalty is not an unconstitutional act.

The death penalty is one of the objectives of sentencing to prevent and create a deterrent effect for perpetrators of criminal acts. According to Muzakir in "Excerpts from the Decision of the Constitutional Court of the Republic of Indonesia Number 2-3/PUU-V/2007 regarding the Review of Law Number 22 of 1997 concerning Narcotics against the 1945 Constitution" the death penalty was imposed as a last resort to protect society, so to provide protection on the principle of community protection. The essence of the death penalty or the death penalty is actually to protect the community, namely to provide a channel for people who want to take revenge. Because if there is no channel through legislation, namely through criminal law, it is feared that the community will take vigilante action.¹⁴

Death Penalty For Perpetrators Of Illicit Drug Trafficking In Indonesia

Several countries in the world have different views on implementing the death penalty. Similar to the debate about the procedure for implementing the death penalty, the existence of the death penalty is also experiencing dynamics. There are countries that reject the implementation of the death penalty and therefore the state abolishes the death penalty, while several other countries still apply the implementation of the death penalty because they are deemed necessary.

For the two groups, both those who support and those who oppose, both base their opinions on normative and sociological reasons. In Indonesia, for example, the majority of the public or around 84.1 percent said they agreed with the death penalty given to drug dealers. "For those who agree, the reason that is widely expressed is that drugs damage the younger generation (60.8%), and can cause a deterrent effect (23.7%). While the public did not agree, the reasons that were often revealed were that there are other types of punishment that are more humane (36.2%) and the death penalty is a violation of human rights (28.4%).

In addition to the issue of normative footing on the existence of the diverse death penalty, differences of opinion in society and legal authorities (lawmakers, courts, and prosecutors) are influenced by various factors, such as: understanding of religious teachings, cultural backgrounds, philosophies and ideologies that adopted by society, and the legal authority. Similarly, individual backgrounds such as gender, race, level of religious observance, age group and personal views on certain crimes also influence positions for or against the death penalty. The national interests or needs of each region to maintain the death

¹⁴ Umar Anwar, 2016, Penjatuhan Hukuman Mati Bagi Bandar Narkoba Ditinjau Dari Aspek Hak Asasi Manusia (Analisa Kasus Hukuman Mati Terpidana Kasus Bandar

Narkoba; Freddy Budiman) Jurnal Legislasi Indonesia, Vol. 13 No. 3, September 2016, hlm. 246.

penalty for certain crimes or crimes are also different.

In the case of Indonesia, when the national interest and needs in the view and belief of the people want the death penalty to be maintained and implemented or abolished and stopped, both must be addressed objectively. When there are voices calling for the abolition of the death penalty from Indonesia's positive law, those who voice it need to convince or even prove empirically that the majority of Indonesians share the same view as them. However, when the majority of the community voices the opposite, that the death penalty still needs to be maintained in Indonesia's positive law for perpetrators of certain crimes that threaten the interests of the wider community, such as perpetrators of terrorism; drug lord and premeditated murderer who took several human lives. Realities like this must be accepted, and at the same time stop noting Indonesia as a country that does not respect human rights because it still maintains the death penalty.¹⁵

Based on the description above, it can be stated that the different views on the implementation of the death penalty, especially for drug offenders, is caused by multiple interpretations. But what is certain is that the death penalty is still formally recognized enforceability in Indonesia, although from time to time efforts are made to minimize its implementation. In addition, factors outside the law, such as the saturation of society towards drug crimes that do not receive strict punishments, the religious background of the community, and the social conditions of the community are other aspects that greatly affects the community and law enforcement differ in

viewing the death penalty for drug offenders in Indonesia.

The results of a survey by the National Narcotics Agency (BNN) show that an average of 50 people die every day from drugs. That is, about 18,000 people per year die from drug abuse. This amount is enough to make Indonesia a drug emergency. Moreover, the age of drug victims is in the productive age range between 15 to 35 years. If the state does not immediately declare war on drugs, the costs of losing potential young people are enormous.¹⁶ Not only harming addicts, the National Narcotics Agency (BNN) also pocketed the prevalence rate of drug abuse in 2015 reaching 2.2 percent or about four million people in Indonesia who are entangled in drug circles. Even the results of a survey conducted by the National Narcotics Agency and the University of Indonesia Health Research Center in 2014 stated that the state suffered a loss of Rp 63.1 trillion due to drug abuse. The number of losses continues to increase from year to year.¹⁷

Based on the BNN data above, it appears that the negative impact of drug use serious enough now. This phenomenon will have implications for people's attitudes who saw it. By using the perspective of rational choice theory – which is exemplar of behaviorism- the actions of the Indonesian government and people who behave firmly against drug offenders by giving the death penalty can be explained. Facing the effects of drug crimes committed by irresponsible people responsibility, the Indonesian people will choose the right punishment to be given to the perpetrators of drug crimes that have been very detrimental to society.

¹⁵Asrul Sani, Kontroversi Hukuman Mati, <https://www.hukumonline.com/berita/baca/lt54a692f2c80be/kontroversi-hukuman-mati>,

diakses pada tanggal 19 Desember 2021 Pukul 16:10 WIB.

¹⁶ Detikcom, 50 Orang Meninggal Per Hari karena Narkoba, Jangan Jadi Salah Satunya!, [https://health.detik.com/advertorial-news-block/d-](https://health.detik.com/advertorial-news-block/d-5791000/50-orang-meninggal-per-hari-karena-narkoba-jangan-jadi-salah-satunya)

[5791000/50-orang-meninggal-per-hari-karena-narkoba-jangan-jadi-salah-satunya](https://health.detik.com/advertorial-news-block/d-5791000/50-orang-meninggal-per-hari-karena-narkoba-jangan-jadi-salah-satunya), diakses pada 19 Desember 2021 Pukul 16:22 WIB.

¹⁷ Indonesiabaik.id, Narkotika, Rugikan Negara, <https://indonesiabaik.id/infografis/narkotika-rugikan-negara-1>, diakses pada 19 Desember 2021 Pukul 16:25 WIB.

According to Muladi, the device for the purpose of punishment must include two things, namely: first, it must more or less accommodate the aspirations of the people who demand it retaliation as a countermeasure on the basis of the perpetrator's level of guilt; second, must include the purpose of punishment in the form of maintaining community solidarity, punishment must be directed to maintain and maintain community unity.¹⁸ Death penalty still represents the sense of justice demanded by society. In addition to the deterrent effect, the effect of preventive, basically the element of retaliation is a strong argument that cannot be neglected which is the incarnation of the element of a sense of justice that lives in society. As a democratic country, applicable laws must be able to reflect and represents a sense of justice that lives in society. Therefore, Indonesia assesses that the death penalty law is still part of Indonesian criminal law because the Indonesian people still want the death penalty.

Based on the description above, it can be said that based on the global trend of implementing the death penalty, including for drug offenders, should be abandoned or at least minimized. However, at the same time establishing a norm law in a country, should consider the will of society as a respect for democracy. By combining these two ways of thinking, then the application of the death penalty for perpetrators of criminal acts in Indonesia is still relevant for carried out by remaining selective and through a mechanism that correct. That matter based on the consideration that the community wants the implementation of the death penalty for the perpetrators drug crime because it is considered disturbing. Taking into account the condition of the community which varies from region to region is important to ensure effectiveness a law as suggested by behaviorists and rational choice.

CONCLUSION

Based on the description above, it can be said that based on the global trend of implementing the death penalty, including for drug offenders, should be abandoned or at least minimized. However, at the same time establishing a norm law in a country, should consider the will of society as a respect for democracy. By combining these two ways of thinking, then the application of the death penalty for perpetrators of criminal acts in Indonesia is still relevant for carried out by remaining selective and through a mechanism that correct. That matter based on the consideration that the community wants the implementation of the death penalty for the perpetrators drug crime because it is considered disturbing. Taking into account the condition of the community which varies from region to region is important to ensure effectiveness a law as suggested by behaviorists and rational choice.

REFERENCE

- [1] Agus Purnomo, 2016, Hukuman Mati Bagi Tindak Pidana Narkoba di Indonesia: Perspektif Sosiologi Hukum, De Jure : Jurnal Hukum dan Syari'ah, Vol. 8, No. 1, 2016.
- [2] Arie Siswanto, 2009, Pidana Mati dalam Perspektif Hukum Internasional, Jurnal Refleksi Hukum, April 2009.
- [3] Asrul Sani, Kontroversi Hukuman Mati, <https://www.hukumonline.com/berita/baca/lt54a692f2c80be/kontroversi-hukuman-mati>, diakses pada tanggal 19 Desember 2021 Pukul 16:10 WIB.
- [4] BNN, Press Release Akhir Tahun 2020; "Sikap BNN Tegas, Wujudkan Indonesia Bebas Dari Narkoba", <https://bnn.go.id/press-release-akhir-tahun-2020/> diakses pada tanggal 19 Desember 2021 Pukul 11:01 WIB.

¹⁸ Husein, Syahrudin. Pidana Mati Menurut Hukum Pidana Indonesia. Sumatera Utara: 2003, p. 2.

- [5] Databoks, BNN Catat Jumlah Tersangka Narkotika Tanah Air Sebanyak 1.307 Orang pada 2020, <https://databoks.katadata.co.id/datapublish/2021/12/14/bnn-catat-jumlah-tersangka-narkotika-tanah-air-sebanyak-1307-orang-pada-2020>, diakses pada tanggal 19 Desember 2021 Pukul 11:14 WIB.
- [6] Detikcom, 50 Orang Meninggal Per Hari karena Narkoba, Jangan Jadi Salah Satunya!, <https://health.detik.com/advertorial-news-block/d-5791000/50-orang-meninggal-per-hari-karena-narkoba-jangan-jadi-salah-satunya>, diakses pada 19 Desember 2021 Pukul 16:22 WIB.
- [7] <https://www.beritasatu.com/nasional/268928/survei-86-rakyat-dukung-hukuman-mati-pengedar-narkoba>, diakses pada 19 Desember 2021 Pukul 19:00 WIB
- [8] Husein, Syahrudin. Pidana Mati Menurut Hukum Pidana Indonesia. Sumatera Utara: 2003.
- [9] Indonesiabaik.id, Narkotika, Rugikan Negara, <https://indonesiabaik.id/infografi/s/narkotika-rugikan-negara-1>, diakses pada 19 Desember 2021 Pukul 16:25 WIB.
- [10] Kompas, 24.878 Orang Ditangkap Terkait Kasus Narkoba di Indonesia sejak Januari 2021, Kompas.com publish 14 Juni 2021, <https://megapolitan.kompas.com/read/2021/06/14/16303771/24878-orang-ditangkap-terkait-kasus-narkoba-di-indonesia-sejak-januari>, diakses pada tanggal 19 Desember 2021 Pukul 11:12 WIB.
- [11] Masyhur Effendi dan Taufan Sukmana, 2010. Hak Asasi Manusia dalam Dimensi/Dinamika Yuridis, Sosial, Politik, Ghalia Indonesia, Bogor.
- [12] Moeljatno, 2015, Asas-Asas Hukum Pidana (Edisi Revisi), Rineka Cipta, Jakarta.
- [13] Mukthie Fadjar, *Teori-Teori Hukum Kontemporer* (Malang: Setara Press, 2014).
- [14] Mustaghfirin dan Irwanto Efendi, Tinjauan Yuridis Terhadap Implementasi Pidana Korupsi Dalam Upaya Mengembalikan Kerugian Keuangan Negara, *Jurnal Pembaharuan Hukum*, Volume 2 No. 1 2015.
- [15] Umar Anwar, 2016, Penjatuhan Hukuman Mati Bagi Bandar Narkoba Ditinjau Dari Aspek Hak Asasi Manusia (Analisa Kasus Hukuman Mati Terpidana Kasus Bandar Narkoba; Freddy Budiman) *Jurnal Legislasi Indonesia*, Vol. 13 No. 3, September 2016.