

Judge's Consideration in Imposing the Death Penalty on Perpetrators of Narcotic and Narcotic Precursor Crimes

ABSTRACT

This study examines the factors contributing to narcotics and narcotic precursor crimes and the judges' considerations in imposing sanctions, with a case study of Decision Number 827/Pid.Sus/2023/PN Tjk. Using a normative juridical and empirical approach, this research analyzes secondary and primary data through a juridical method. The findings indicate that narcotics crimes are driven by legal loopholes, weak law enforcement, and official involvement in drug networks. The judge's decision in this case demonstrates a law enforcement effort aimed at justice, particularly in protecting society from the harmful effects of narcotics. To address these issues, the study recommends that the government revise narcotics regulations to eliminate legal loopholes and that judges continuously evaluate rulings to maintain a balance between public protection and individual rights.

Keyword: Contributing Factors; Criminal Act; Narcotics; Precursor

INTRODUCTION

Article 3 of the 1945 Constitution states that "Indonesia is a state based on law," signifying that law holds the highest position in the formation of the nation. Law as an inseparable element of life, serves as a guideline for regulating human behavior in daily activities. Without the existence of law, it is difficult to imagine how a country would be structured. Law is designed, grows, and develops within society with the aim of creating order, peace, stability, and prosperity in communal life.

Law is a set of regulations established by an authority to govern society. These regulations have characteristics of being regulatory, prohibitive, and coercive with sanctions imposed on those who violate them. Criminal law is one branch of law in Indonesia that arrange prohibited actions and determines criminal sanctions for violations. This field of law functions as a unit within the national legal system to regulate various essential aspects, including:

- a. Defining prohibited actions and imposing sanctions on violators.
- b. Regulating the conditions under which offenders may be punished under applicable laws.
- c. Determining procedures for enforcing penalties against proven violators.

Law is a collection of valid regulations that apply to all citizens. The purpose of these regulations is to protect individuals from crimes or violations. Through law enforcement, justice can be upheld, and public security can be ensured. Criminal law plays a crucial role in the legal system by outlining commands and prohibitions, along with penalties for violators. It defines punishable acts, the circumstances for punishment, and the types of sanctions imposed. Law and society are interconnected and inseparable. Law only exists within society, as expressed by the Roman legal principle *ubi societas ibi ius* (where there is society, there is law). Law maintains order and justice by integrating societal interests.

Criminal law has become an increasingly significant aspect of legal studies due to the rising crime rate. It plays a role in maintaining social order and peace. A country's progress can be measured by its citizens' adherence to the law, which influences societal order. Indonesia, as a state governed by law, requires compliance with both written and unwritten regulations to establish order, with sanctions for violators as part of law enforcement.

Currently, crimes that disturb society, both physical and non-physical, are increasingly rampant. One of the fastest-growing crimes is narcotics offenses, which continue to rise and pose a severe threat to many nations, including

Indonesia. This crime transcends age, class, and social status, involving children, teenagers, adults, the elderly, officials, celebrities, and businesspeople.

The Indonesian government has declared a narcotics emergency. Various efforts have been undertaken to combat drug abuse due to its widespread impact. Narcotics-related crimes are a primary concern, as handling them requires strong and effective collaboration among various parties.

Medical professionals use narcotics as anesthetics before surgery, as these substances can affect a patient's emotions, thoughts, and consciousness. When used in appropriate doses under medical supervision, narcotics can be beneficial for treatment and research. However, misuse can lead to addiction and severe mental and physical damage. The narcotics issue has broad implications, covering medical, psychological, and social aspects.

Drug abuse and its impact among teenagers have now become a common issue. Many lives have been lost due to drug abuse. The use of illegal drugs has not only damaged students' mindsets but also their academic achievements. Therefore, drug use among young people must be eradicated for the sake of the nation's future.

Narcotics offenses are explicitly regulated under Law No. 35 of 2009 on Narcotics. This regulation was formulated with the recognition that, while narcotics have medical, health, and scientific benefits, they also pose a severe risk of addiction and harm if misused or not properly controlled and monitored. The law classifies narcotics offenses as serious crimes due to their detrimental and hazardous effects on individuals, society, the nation, and national security.

One example of a narcotics offense can be found in the Tanjung Karang District Court Decision No. 829/Pid.Sus/2023/PN Tjk, where the defendant was legally and convincingly found guilty of committing a narcotics and precursor narcotics crime. The defendant also acted as an intermediary in a transaction involving more than 5 grams of a Schedule I non-plant-based narcotic, as charged in the first indictment.

Based on the background above, this study examines two main issues: (a) What are the factors contributing to narcotics and precursor narcotics crimes? (Case Study of Decision No. 827/Pid.Sus/2023/PN Tjk), and (b) What are the judges' considerations in imposing sanctions for narcotics and precursor narcotics crimes? (Case Study of Decision No. 827/Pid.Sus/2023/PN Tjk).

RESEARCH METHODS

To address the research problem and ensure the validity of the findings, this study employs a normative juridical approach and an empirical approach. The normative juridical approach is a doctrinal legal research method that examines legal norms, rules, and regulations relevant to the issue by analyzing legislation, theories, and literature. Meanwhile, the empirical approach studies the implementation of normative legal provisions (codifications, laws, or contracts) in real-life situations by collecting primary data through direct observation and interviews with relevant sources at the research site.

RESULT AND DISCUSSION

Factors Causing Narcotics and Precursor Narcotics Crimes (Case Study of Decision No. 827/Pid.Sus/2023/PN Tjk)

In conducting field research to identify the causes of narcotics and precursor narcotics crimes (Case Study of Decision No. 827/Pid.Sus/2023/PN Tjk), several key informants were interviewed to provide empirical evidence supporting the study.

According to Eka Aftarini, a Public Prosecutor at the Bandar Lampung District Prosecutor's Office, narcotics crimes significantly impact society in terms of health, social stability, and the economy. Based on Decision No.

827/Pid.Sus/2023/PN Tjk, the causes of narcotics crimes are categorized into internal and external factors. Internal factors include individual character, psychological influences, and economic motives. In this case, the defendant had access to narcotics and was likely motivated by financial gain, as quick profits often drive individuals to engage in drug networks as dealers, couriers, or facilitators. External factors include environmental influence, social pressure, and weak law enforcement. Court findings revealed the defendant's involvement with a major drug syndicate, highlighting the role of organized networks in facilitating illegal drug distribution. Additionally, weak surveillance in certain regions creates loopholes for criminal activity.

Judge Lingga Setiawan of the Tanjung Karang District Court stated that beyond economic and social factors, weaknesses in the legal system also contribute to narcotics crimes. A lack of strict law enforcement and corruption within law enforcement agencies further aggravate the situation. In this case, the defendant, a law enforcement officer, abused his authority to facilitate drug distribution. Furthermore, international drug networks have exacerbated narcotics-related crimes, as this case indicates the defendant's links to foreign-based syndicates. This highlights that narcotics crimes are not just local issues but part of transnational organized crime, exploiting weak legal oversight.

Psychological factors also play a role in narcotics-related offenses. Many offenders experience severe life pressures, such as debt, family issues, or negative environmental influences. In this case, the defendant may have viewed involvement in drug trafficking as a way to escape financial hardship or social pressure.

Despite existing policies to curb drug abuse, implementation remains challenging. Prosecutor Eka Aftarini noted that many offenders in need of rehabilitation end up re-entering drug networks due to inadequate supervision and limited opportunities for reintegration into society.

This study aligns with Robert Seidman's Legal Enforcement Theory, which asserts that legal effectiveness depends on three key elements: (1) law making by

legislative bodies, (2) law enforcement by authorities and courts, and (3) public compliance. In the context of narcotics crimes, these elements must work in synergy for effective law enforcement. However, in cases like this, imbalances in these elements contribute to ongoing violations.

The first element, law making, pertains to policies and regulations governing narcotics control. Indonesia's legal framework, including Law No. 35 of 2009 on Narcotics, defines drug-related offenses and their penalties. However, regulatory loopholes allow offenders to exploit the system. In this case, existing laws were insufficient in curbing drug trafficking, particularly within networks involving law enforcement personnel.

The second element, law enforcement, plays a crucial role in narcotics eradication. Unfortunately, weak internal oversight has contributed to the involvement of law enforcement officials in drug syndicates, worsening the situation. This case revealed that legal enforcers were complicit in drug distribution, exposing flaws in integrity and efficiency within the system. The failure to monitor law enforcement personnel allows drug networks to expand unchecked.

The third element, public compliance with the law, is vital in narcotics-related offenses. Seidman emphasized that laws are ineffective if society lacks awareness and adherence. The defendant in this case was not only part of a drug network but also a member of a community that failed to uphold legal norms. Social, economic, and environmental pressures influence compliance, particularly among individuals facing financial hardships or living in permissive environments.

This analysis concludes that the narcotics crime in this case reflects imbalances in the three elements of law enforcement as outlined by Seidman's theory. Gaps in lawmaking, weak enforcement due to law enforcer involvement in drug networks, and a lack of public legal awareness contribute to the persistence of these crimes. Therefore, reforms in law enforcement, stricter

oversight of officials, and enhanced public education and rehabilitation programs are necessary to establish a more effective and just legal system.

Judge's Considerations in Imposing Sanctions for Narcotics and Narcotics Precursor Crimes (Case Study of Decision No. 827/Pid.Sus/2023/PN Tjk)

Considerations in Sentencing

Based on an interview with Mr. Lingga Setiawan, a judge at the Tanjung Karang District Court, it was revealed that in Case No. 827/Pid.Sus/2023/PN Tjk, the panel of judges took multiple factors into account before delivering their verdict. One of the primary considerations was the defendant's involvement in an organized narcotics distribution network, indicating the severity of the crime. The trial revealed that the defendant acted as an intermediary in large-scale narcotics transactions, violating Article 114(2) in conjunction with Article 132(1) of Law No. 35 of 2009 on Narcotics.

When determining the severity of the sentence, the panel of judges emphasized aggravating factors. One of the key factors was the negative impact of illicit narcotics distribution on society, particularly on the younger generation. Drug-related crimes contribute to increasing addiction rates and criminal activity. Furthermore, in this case, the defendant was a law enforcement officer—a police officer—who abused his position to facilitate illegal narcotics distribution, rather than upholding justice.

While mitigating factors were considered, the panel of judges found no significant circumstances that could reduce the defendant's sentence. Instead, the defendant's actions were deemed a betrayal of both the police institution and public trust. Consequently, to deter future crimes and reinforce legal consequences, the court imposed the maximum penalty: the death sentence.

Purpose of Sentencing

According to Judge Lingga Setiawan, another fundamental consideration in the ruling was the objective of sentencing itself. In Indonesia's legal system, punishment is not solely for retribution but also serves to protect society and prevent future crimes. In this case, the panel of judges determined that the imposed sentence should reflect justice for victims and create a strong deterrent effect for both the defendant and potential offenders.

During the trial process, the judges examined evidence and witness testimonies confirming that the defendant had repeatedly engaged in large-scale narcotics transactions. The prosecution presented financial transaction records, narcotics, and communication devices as key evidence, reinforcing the conclusion that the defendant was guilty beyond reasonable doubt. Moreover, the defendant's connections to an international narcotics syndicate further influenced the severity of the punishment.

The panel of judges emphasized that the punishment must align with the principles of justice and proportionality. Although life imprisonment was an available sentencing option, the judges determined that only the death penalty could provide maximum deterrence and uphold justice for society.

Legal Basis for the Death Penalty

According to Judge Lingga Setiawan, the decision to impose the death penalty was based on Article 10 of the Indonesian Penal Code (KUHP), which classifies the death penalty as the highest form of punishment for extraordinary crimes. Large-scale drug trafficking is considered an extraordinary crime due to its widespread social and economic consequences.

Furthermore, the case set an important precedent regarding the accountability of law enforcement officers. Judges stressed the need for stricter supervision of law enforcement officials, especially those involved in narcotics eradication. The ruling reinforces that officers who violate the law must receive

appropriate punishment to maintain public trust in the justice system. Thus, the sentencing aims not only to punish the defendant but also to deter similar offenses within law enforcement circles.

Application of John Rawls' Theory of Justice

The sentencing considerations in Case No. 827/Pid.Sus/2023/PN Tjk can be analyzed through the lens of John Rawls' Theory of Justice, which is based on two fundamental principles:

- 1) Equal basic liberties for all individuals, ensuring equal rights and freedoms.
- 2) Acceptable social or economic inequalities, provided they benefit the most disadvantaged groups in society.

In this case, the panel of judges upheld distributive and procedural justice principles in determining the appropriate sanction for the defendant. According to Rawls' first principle, ensuring justice means that laws must be enforced without discrimination—all drug offenders, regardless of their social status or profession, must be treated equally under the law.

1) Protection of Fundamental Rights

Rawls' first principle, which ensures equal basic liberties, aligns with the court's decision to impose severe punishment for drug-related crimes. Society has a fundamental right to live in a drug-free environment, and drug trafficking threatens public safety and well-being. By imposing a severe sentence, the judges aimed to safeguard society's basic freedoms and prevent further harm caused by drug abuse.

2) Protecting the Most Vulnerable Groups

Rawls' second principle acknowledges that social inequalities can be justified if they benefit society's most vulnerable members. In this case, the death sentence serves to protect at-risk groups, including young people

and economically disadvantaged communities who are often most affected by the narcotics trade. By delivering a severe sentence, the court sought to minimize drug-related harm among vulnerable populations.

3) Equal Opportunity and Accountability

Another key aspect of Rawls' justice theory is the principle of fairness in opportunity. The defendant—a police officer—abused his position to facilitate drug trafficking. By imposing a harsh penalty, the court reinforced the principle that all individuals, regardless of their power or position, must be held accountable under the law. The ruling ensures fairness by demonstrating that the legal system does not offer privileges to offenders with authority or influence.

While Rawls' justice theory supports fairness in legal enforcement, it also raises ethical questions regarding capital punishment. Rawls argues that policies must benefit society as a whole and should not disproportionately harm individuals. Therefore, the application of the death penalty must be carefully evaluated to ensure it truly serves justice rather than merely acting as retribution.

From a Rawlsian perspective, alternative sentences such as life imprisonment with rehabilitation opportunities might better align with substantive justice—particularly if rehabilitation could contribute positively to society. Thus, the proportionality and ethical justification of the death penalty remain subjects of debate, requiring careful legal and moral consideration.

Rawls' theory also underscores the importance of procedural justice. The defendant must be given a fair opportunity to defend himself, and the trial must be transparent and impartial. If any form of coercion, bias, or procedural flaw existed, the ruling could be deemed unjust. Therefore, ensuring that due process was upheld throughout the trial is crucial in evaluating the legitimacy of the sentence.

CONCLUSION

The factors contributing to the narcotics crime case in Decision Number 827/Pid.Sus/2023/PN Tjk reflect an imbalance in the three elements of law enforcement according to Robert Seidman's theory. Loopholes in legislation, weak law enforcement due to the involvement of officials in drug networks, and a lack of legal awareness in society are the main factors that have allowed this crime to persist and grow.

The judge's considerations in Decision Number 827/Pid.Sus/2023/PN Tjk reflect an effort to enforce the law with a justice-oriented approach, particularly in protecting society from the harmful effects of narcotics. However, from the perspective of Rawls' theory of justice, it is crucial to continuously evaluate whether the sentence imposed truly balances public protection and individual rights. If severe penalties such as the death penalty are applied, it must be ensured that the decision fully adheres to substantive justice principles and does not violate broader humanitarian principles.

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