

Judicial Considerations in Commuting the Death Penalty to Imprisonment for Narcotics Offenders: An Analysis of Supreme Court Decision No. 739 K/Pid.Sus/2023

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Abstract

Indonesia classifies narcotics trafficking as an extraordinary crime due to its significant impact on public health, social stability, national security, and economic development. Although Law Number 35 of 2009 on Narcotics authorizes the imposition of the death penalty for large-scale narcotics offenses, recent judicial practice demonstrates a shift toward imprisonment in certain cases. This study aims to analyze the legal considerations underlying the commutation of the death penalty to imprisonment in Supreme Court Decision No. 739 K/Pid.Sus/2023 and to evaluate its implications for legal certainty within Indonesia's criminal justice system. The research employs a normative juridical method using statutory, case, and conceptual approaches. Primary legal materials consist of statutory regulations and judicial decisions, while secondary legal materials include legal doctrines, scholarly literature, and previous studies concerning criminal law, sentencing, and human rights. Data were analyzed qualitatively through descriptive-analytical techniques by examining judicial reasoning and relevant legal principles. The findings indicate that the Supreme Court's decision reflects a proportional and substantive justice approach by considering the defendant's role, evidentiary circumstances, sentencing objectives, and constitutional values alongside the principle of legality. The decision also illustrates an emerging paradigm in Indonesian criminal law that balances punitive objectives with the protection of fundamental rights. Nevertheless, differences in sentencing outcomes among similar narcotics cases continue to create legal uncertainty and judicial disparity. Therefore, clearer sentencing guidelines are necessary to ensure consistency, proportionality, and predictability in the adjudication of serious narcotics offenses while maintaining the objectives of criminal law and the rule of law.

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1. INTRODUCTION

Narcotics trafficking remains one of the most serious transnational crimes affecting legal systems worldwide due to its detrimental consequences for public health, national security, economic stability, and social welfare. In Indonesia, narcotics crimes are classified as extraordinary crimes because they are frequently committed through organized criminal networks with extensive domestic and international operations. Consequently, Law Number 35 of 2009 on Narcotics prescribes severe criminal sanctions, including the death penalty, particularly for large-scale narcotics trafficking and distribution. The imposition of capital

punishment reflects the state's commitment to combating narcotics-related crimes and protecting society from their devastating impacts (Rinaldi & Tutrianto, 2023).

Despite its statutory legitimacy, the application of the death penalty in narcotics cases has generated persistent legal and academic debate. One perspective argues that capital punishment serves as an effective deterrent against organized narcotics crimes, while another emphasizes the protection of the right to life as guaranteed by constitutional principles and international human rights instruments. The coexistence of these competing perspectives has made judicial sentencing in narcotics cases one of the most controversial issues in Indonesian criminal law (Hasibuan et al., 2024; Yulianti, 2024).

Previous studies have extensively examined the legal and philosophical dimensions of the death penalty. Soponyono et al. (2016) analyzed judicial considerations in imposing the death penalty on narcotics offenders and concluded that judicial decisions primarily relied on statutory interpretation and aggravating circumstances. Rasad (2021) discussed the possibility of commuting death sentences into imprisonment through alternative sentencing policies and emphasized the importance of balancing criminal justice objectives with human rights protection. Rinaldi and Tutrianto (2023) focused on the socio-legal discourse surrounding capital punishment as a strategy for combating narcotics trafficking, whereas Hasibuan *et al.* (2024) evaluated the ethical and juridical implications of maintaining the death penalty in Indonesia. Furthermore, Yudistira et al. (2025) explained that the enactment of the new Indonesian Criminal Code has introduced a more flexible sentencing model by recognizing conditional capital punishment as part of a progressive penal policy.

Several recent studies have also addressed the death penalty from constitutional and human rights perspectives. Ramdhayani (2023) argued that the implementation of capital punishment continues to raise concerns regarding the protection of fundamental human rights. Likewise, Nuzula (2024) examined the constitutional legitimacy of the death penalty from the perspective of *fiqh siyasah*, while Susinta (2025) emphasized the criminological and human rights dimensions of capital punishment in narcotics crimes. Nurfarida (2024) further highlighted that the enactment of Law Number 1 of 2023 concerning the Indonesian Criminal Code has shifted Indonesia's sentencing policy toward conditional capital punishment, reflecting a more balanced approach between punishment and rehabilitation.

Although previous studies have contributed significantly to understanding the legality, constitutionality, and human rights aspects of the death penalty, they predominantly discuss the issue from normative or theoretical perspectives. Limited attention has been devoted to examining the judicial reasoning underlying the commutation of a death sentence into imprisonment in a specific Supreme Court decision. In particular, no previous study comprehensively analyzes Supreme Court Decision No. 739 K/Pid.Sus/2023 by comparing its judicial considerations with previous decisions imposing capital punishment while simultaneously evaluating their implications for legal certainty, proportionality, and substantive justice.

Accordingly, the scientific novelty of this article lies in its comprehensive analysis of the judicial reasoning adopted by the Indonesian Supreme Court in commuting a death sentence to imprisonment for a narcotics offender. Unlike previous studies that mainly discuss the legality or constitutionality of capital punishment, this study integrates statutory interpretation, judicial reasoning, proportionality, legal certainty, and substantive justice into a single analytical framework. The study also provides a contemporary evaluation of sentencing policy following the transition toward the new Indonesian Criminal Code.

2. METHOD

This study employed a normative juridical research design to examine the legal considerations underlying the commutation of the death penalty to imprisonment in narcotics cases. Normative legal research emphasizes the analysis of legal norms, statutory provisions, legal doctrines, and judicial decisions to interpret and evaluate legal issues systematically rather than collecting empirical data from respondents (Marzuki, 2021).

The research adopted three complementary approaches. First, the statutory approach was used to examine the legal framework governing narcotics crimes and capital punishment in Indonesia, including the 1945 Constitution, Law Number 35 of 2009 on Narcotics, Law Number 1 of 2023 concerning the Indonesian Criminal Code, and other relevant legislation. Second, the case approach focused on analyzing Supreme Court Decision No. 739 K/Pid.Sus/2023 and comparing it with District Court Decision No. 336/Pid.Sus/2022/PN.Jkt.Tim to identify the judicial reasoning that resulted in the commutation of the death penalty to imprisonment. Third, the conceptual approach was applied to interpret legal doctrines concerning legality, proportionality, substantive justice, sentencing policy, and human rights within Indonesian criminal law (Soekanto & Mamudji, 2019).

The primary legal materials consisted of statutory regulations and judicial decisions directly related to narcotics offenses and capital punishment. Secondary legal materials included scholarly books, peer-reviewed journal articles, legal commentaries, and previous studies discussing judicial discretion, sentencing policy, and the death penalty. Tertiary legal materials comprised legal dictionaries, encyclopedias, and other supporting references that facilitated the interpretation of legal terminology (Ibrahim, 2019).

Legal materials were collected through an extensive literature review using official legislation databases, Supreme Court decisions, academic books, accredited national journals, and reputable international publications. The collected materials were systematically classified according to the research questions and analyzed using a qualitative descriptive-analytical method. The analysis involved interpreting statutory provisions, comparing judicial reasoning across court decisions, and evaluating their consistency with the principles of legality, proportionality, legal certainty, and substantive justice (IRAC framework) (Hutchinson, 2018).

3. RESULTS AND DISCUSSION

a. Judicial Considerations in Commuting the Death Penalty to Imprisonment

The analysis of Supreme Court Decision No. 739 K/Pid.Sus/2023 demonstrates that the commutation of the death penalty to twenty years of imprisonment was not merely a reduction in punishment but reflected a broader transformation in judicial reasoning within Indonesia's criminal justice system. The findings indicate that the Supreme Court adopted a balanced approach by integrating statutory interpretation with constitutional principles, proportionality, and substantive justice. Rather than relying exclusively on the punitive provisions of Law Number 35 of 2009 on Narcotics, the Court evaluated aggravating and mitigating circumstances, the defendant's level of participation, and the broader objectives of criminal punishment.

One significant finding is that the principle of legality remained the primary legal foundation for judicial decision-making. The Court acknowledged that the defendant fulfilled the statutory elements required for severe punishment under the Narcotics Law; however, legality was interpreted together with the principle of proportionality. This approach suggests that sentencing should not only satisfy statutory requirements but also ensure that the punishment imposed corresponds to the offender's

culpability and the overall purpose of criminal justice. Such reasoning reflects a gradual evolution from a strictly retributive sentencing model toward a proportional sentencing policy (Muladi, 2008).

Another important finding concerns the increasing role of substantive justice in judicial reasoning. Instead of viewing punishment solely as retaliation, the Court considered broader legal values, including fairness, legal certainty, and the protection of constitutional rights. This approach corresponds with modern criminal law theories, which argue that punishment should balance deterrence, rehabilitation, and social protection rather than focusing exclusively on retribution (Ashworth, 2021). Consequently, the reduction from capital punishment to imprisonment represents a judicial effort to harmonize statutory obligations with constitutional values.

The findings further reveal that judicial discretion plays a decisive role in determining sentencing outcomes in narcotics cases. Although Indonesian narcotics legislation provides severe sanctions for large-scale trafficking, judges retain discretion in assessing factual circumstances and evaluating whether the maximum punishment is proportionate. Judicial discretion therefore functions as a mechanism for ensuring individualized justice while maintaining adherence to statutory provisions (Roberts, 2019).

Compared with previous studies, these findings extend earlier research. Soponyono et al. primarily examined the legality of imposing the death penalty, whereas the present study demonstrates how judicial reasoning has evolved beyond formal legality toward proportional sentencing. Likewise, Rasad emphasized sentencing alternatives from a policy perspective, while this study identifies the practical judicial considerations that justified sentence commutation in an actual Supreme Court decision. Accordingly, the principal scientific finding is that the commutation of the death penalty represents not judicial inconsistency but the emergence of a more balanced sentencing paradigm grounded in legality, proportionality, and substantive justice.

b. Implications of Sentencing Disparity for Legal Certainty in Indonesian Criminal Justice

The comparative analysis between Supreme Court Decision No. 739 K/Pid.Sus/2023 and District Court Decision No. 336/Pid.Sus/2022/PN.Jkt.Tim reveals that sentencing disparity remains one of the most significant challenges in Indonesian criminal justice. Although both decisions concern serious narcotics offenses involving similar statutory provisions, they resulted in substantially different punishments. This disparity illustrates that judicial interpretation continues to influence sentencing outcomes despite the existence of identical legal norms.

The research found that sentencing disparity does not automatically indicate inconsistency in law enforcement. Instead, differences emerge because judges evaluate distinct evidentiary circumstances, the offender's role within the criminal organization, aggravating and mitigating factors, and the broader objectives of punishment. Consequently, sentencing becomes a process of legal reasoning rather than a mechanical application of statutory provisions. This finding supports the contemporary understanding that criminal sentencing requires individualized assessment to achieve substantive justice (Frase, 2013).

However, excessive sentencing disparity may reduce legal certainty by creating uncertainty regarding how identical legal provisions will be interpreted in future cases. Legal certainty requires that similar cases be treated consistently while allowing reasonable flexibility for judges to consider factual differences. Without clear

sentencing standards, judicial discretion may generate unpredictable outcomes, thereby reducing public confidence in the criminal justice system (Radbruch, 2006).

Another important finding is that Indonesia is currently experiencing a paradigm shift in criminal punishment. The introduction of conditional capital punishment under the new Criminal Code reflects legislative recognition that punishment should accommodate both justice and humanity. The Supreme Court's reasoning in Decision No. 739 K/Pid.Sus/2023 is consistent with this policy direction because it demonstrates greater emphasis on proportionality than on absolute retribution. This development indicates that sentencing policy is increasingly oriented toward balancing crime control with constitutional protections and human rights.

The present findings also differ from earlier studies that focused primarily on constitutional debates concerning capital punishment. Previous researchers generally discussed whether the death penalty should be retained or abolished. In contrast, this study demonstrates how judicial reasoning operates in practice when determining whether a death sentence should be maintained or commuted. Therefore, the contribution of this study lies in explaining the relationship between judicial discretion, sentencing disparity, proportionality, and legal certainty through an analysis of an actual Supreme Court decision..

4. CONCLUSION

This study concludes that the commutation of the death penalty to twenty years of imprisonment in Supreme Court Decision No. 739 K/Pid.Sus/2023 reflects a progressive judicial approach that integrates the principles of legality, proportionality, substantive justice, and legal certainty in adjudicating serious narcotics offenses. The findings demonstrate that judicial sentencing is no longer based solely on the punitive provisions of Law Number 35 of 2009 on Narcotics but also considers the offender's degree of culpability, constitutional values, and the broader objectives of criminal punishment. Furthermore, the comparative analysis indicates that sentencing disparities in similar narcotics cases arise primarily from differences in judicial assessment rather than inconsistencies in statutory law, although such disparities may affect legal certainty if not supported by clear sentencing standards. Accordingly, this study contributes to the development of Indonesian criminal law by demonstrating that judicial discretion can reconcile effective law enforcement with the protection of fundamental rights, while emphasizing the need for comprehensive sentencing guidelines to ensure greater consistency, transparency, and predictability in future narcotics cases..

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