

An Analysis About Drugs Dealers

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ABSTRACT

This research was motivated by two accused drugs dealers who came from Mandailing Natal who were caught by members of the Padangsidimpuan City Police on January 8, 2020 in Field I Tor Simarsayang with evidence of narcotics class I, type of marijuana weighing 250 kilograms and was sentenced by a judge with sanctions sentence of 20 years in prison. The purpose of this study is to determine the application of the panel of judges regarding material law in the decision, to determine the judge's considerations in imposing the penalty. and to find out how the perspective of Islamic criminal law is related to the decision No.177/Pid.Sus/2020/Pn/Psp. The research used in this research is field research which is qualitative in nature, namely research conducted by collecting primary and secondary data. Research data that becomes primary data is data obtained directly from research subjects, namely the results of interviews with the Padangsidimpuan City District Court judges and the defendants in in social institution of Padangsidimpuan. While the secondary legal materials for researchers were obtained from laws and regulations, books, articles, expert opinions, and other sources deemed relevant and related to this research. The data collection technique is done by interview, and documentation. The data is processed by identification, clarification and analysis techniques to obtain final conclusions. The results of this study are the application of material law in No.177/Pid.Sus/2020/Pn/Psp is involvement as a narcotics courier, conspiracy in narcotics couriers and evidence. As well as the consideration of the panel of judges in decision No.177/Pid.Sus/2020/Pn/Psp in imposing a 20-year sentence, there are two considerations, namely juridical considerations and non-juridical considerations, in which the juridical considerations consist of the demands of the public prosecutor, a memorandum of defense for the defendant, statements the defendant, the statements of the witnesses, and mitigating and aggravating and non-juridical matters are sociological aspects. So that in imposing a sentence, the judges really consider the sanctions that will be decided based on the facts in the trial.

Keywords: Drugs Dealers, Ruling

A. Introduction

Life and human needs are increasingly developing, in carrying out life in the midst of developing times that make humans more creative and modern. This is marked by the difficulty in finding work, the number of unemployed and workers who have been terminated by the authorities. One of the things that every human being is most proud of is wealth, but that does not mean that Islam does not teach materialism but that Islam teaches Muslims to try their best according to their ability to seek wealth, of course, it must be in a good way, not in a haram way such as cheating and cheating. fraud that can harm others.¹ With a life that continues to develop and it is difficult to find work, the development of this life is also accompanied by the development of crime.

The growth of crime in society is closely related to changes in society with the environment that causes crime, both that lies in each individual human being as well as in the conditions and environment. social behavior which can result in the increase and development of different criminal behavior from time to time. There are causes of crimes like This particular internal factor is related to the individual's psychological state. Psychological factors are very influential factors in the occurrence of crime. This is because if the individual is psychologically depressed, the tendency of the individual will commit a deviation or crime.²

In this case, the need to survive in conjunction with bad intentions is formed a way of justifying and doing wrong work in order to support the need to survive in the midst of the harsh

¹ Hendra Gunawan, "Analisis Jual Beli Barang Curian Perspektif Hukum Pidana Islam," *Yurisprudencia: Jurnal Hukum Ekonomi* Vol. 7, no. 1 (2021), hlm.129.

² Ahmad Sainul, "Kajian Umum Tentang Tindak Kekerasan Dalam Rumah Tangga," *Jurnal El-Qonuniy: Jurnal Ilmu-Ilmu Kesyar'ahan Dan Pranata Sosial* Vol.7, no. 1 (2021), hlm.55.

times, such as the work of being a direct delivery of goods which is usually called "courier". This Courier job is a good job as long as it is done according to the procedure, but if this courier job is carried out for the delivery of goods that are prohibited by the state without rights and against the law in this case is narcotics, then this courier job is a wrong job because participating in a narcotics crime.

As for the cases related to the crime of narcotics abuse that the author raises is the crime of narcotics abuse committed by couriers, namely ASN who is often called Boja who works as an honorary employee of the Madina District Office of Panyabungan and PR who works as a driver. The two defendants were arrested on January 8, 2020 and the results of these arrests were found in the truck where marijuana was put in a 250 kilograms sack, Thus the judge sentenced the two defendants to courier with the maximum sentence 20 years in prison in accordance with the Narcotics Law.

B. Research of Methode

Methode of this research is field Research namely data

collection is carried out by direct interviews with the panel of judges and interviews with the defendants in Decision No. 177/Pid.Sus/2020/Pn/Psp. The main source of data of research is interviews with judges and convict and the secondary data sources is form of journals, books, articles. Collection techniques Interview is a question and answer process or writing two or more persons related to be examined to obtain accurate information with subject of this research like judges, convict at Padangsidempuan District Court via communication by asking questions to the sources or respondents. Collecting data in the form of this documentation. So that the location of the research is carried out in the Padangsidempuan district court office in order to obtain accurate, clear and safe information and also location of this research at prison at the Class II B Social Institution Padangsidempuan.

C. Study and Result of Research

The judiciary is one of the fundamental pillars, because on

this judiciary the government system is based as part of implementing Islamic law in all aspects of political life. It is this institution that enforces justice in the midst of society by punishing anyone who is punished and to ensure that teaching is continuous, so the presence of the existing judicial institutions is part of Islamic teachings. Because humans have very limited knowledge so that mistakes can happen, even humans tend to be wrong and full.³

In Law No. 35 of 2009 concerning Narcotics which regulates, supervises and acts against distribution and abuse Narcotics. Narcotics not only make humans addicted, but can cause a person to die quickly and unnaturally. Humans really need a clean place in their environment and a healthy body in order to carry on their life. The abuse of narcotics has been called a crime against humanity. Narcotics is of

³ Hendra Gunawan, "Sistem Peradilan Islam," *Jurnal El-Qanuniy: Jurnal Ilmu-Ilmu Kesyarahan Dan Pranata Sosial* Vol. 5, no. 1 (2019): hlm. 1.

course the enemy of our nation in terms of creating the next generation of a nation that is healthy and free from narcotics.

Narcotics are classified into;

- a. Narcotics Category I, the types of narcotics in group I include: Marijuana, Shabu-shabu, Cocaine, Opium, Heroin etc.
- b. Narcotics Category II, types of narcotics in group II include: morphine, pertidin, etc.
- c. Narcotics Group III, types of narcotics in group III include: Codeine, etc.⁴

Definition of courier doesn't exist in Law Number 35 of 2009 concerning narcotics but in law number 35 of 2009 concerning narcotics courier known as intermediary by selling and buying narcotics. So defenition of intermediary in the Big Indonesian Dictionary is a messenger who delivers something important

⁴Law Number 35 of 2009 concerning Narcotics

quickly.⁵ For intermediaries in narcotics transactions class I, the perpetrators are threatened in accordance with Article 114 paragraph 1 and paragraph 2 of the Narcotics Law No 35 of 2009.

And in paragraph (2) it is stated that, *"in the case of an act to sell, sell, buy, become an intermediary in the sale and purchase, exchange, deliver, or receive Narcotics Category I as referred to in paragraph 1, which is in the form of plants whose weight exceeds 1 (one) kilogram or more than 5 (five) trees or in non-plant form weighing 5 (five) grams, the perpetrator shall be death penalty, life imprisonment or imprisonment of at least 6 years and a maximum of 20 years and a maximum fine as referred to in paragraph 1 plus 1/3 (one third) "*.

Article 132 paragraph 1 states that *"Attempt or evil consensus to commit the crime of Narcotics and Narcotics Precursor as referred to in Article 111, Article 112, Article 113, Article 114, Article 115, Article 116, Article 117, Article 118, Article 119, Article 120, Article 121, Article 122, Article 123, Article 124, Article 125, Article 126, and Article 129, the perpetrator is sentenced to the same imprisonment in accordance with the provisions referred to in these Articles "*.⁶

According to article 1 point

⁵ Kamus Besar Bahasa Indonesia, *Definisi Kurir*, (Jakarta: Lentera,2010), hlm. 18.

⁶ Law Number 35 of 2009 concerning Narcotics.

KUHAP What is meant by a court decision is a judge's statement pronounced in an open court session, which can be in the form of sentencing or free or realese from all lawsuits in the case and according to the method regulated in the law.⁷ According to Lilik Mulyadi, a judge's decision is a decision pronounced by a judge in a trial of a criminal case that is open to the public after going through the process and procedural law of criminal procedure which generally contains a sentence for punishment or acquittal or release from all lawsuits made in written form with the aim of resolving the case⁸.

Based on the consideration of the panel of judges in the decisionNumber177/Pid.Sus/2020 /Pn/Psp in which the defendant on behalf of ASN and the defendant PR in the trial the panel of judges

⁷ Law Number 8 1981 concerning Criminal Proceusure Law.

⁸ Lilik Mulyadi, *Seraut Wajah Putusan Hakim dalam Hukum Acara Pidana Indonesia*, (Bandung: PT Citra Aditya Bakti, 2005), hlm. 131.

concluded that the defendants were legally and convincingly proven to have committed a criminal act of conspiracy without rights. become an intermediary in the sale and purchase of narcotics class I in the form of plants weighing more than 1 kg. By having fulfilled all the elements of article 114 paragraph 2 in conjunction with article 132 paragraph 1 of the Republic of Indonesia Law No. 35 of 2009 concerning narcotics by taking into account the facts in the trial which had previously been indicted by the public prosecutor with 3 articles in the alternative indictment, namely article 115 paragraph 2 In conjunction with Article 132 paragraph 1 of RI Law No. 35 of 2009, Article 114 paragraph (2) Jo Article 132 paragraph (1) of RI Law no. 35 of 2009 concerning narcotics regarding Narcotics, and Article 111 paragraph (2) in conjunction with Article 132 paragraph (1) of the Republic of Indonesia Law no.

35 of 2009 on narcotics.⁹

The elements of which are as follows:

1. The Involvement As a Narcotics Courier
2. Conspiracy As a Narcotics Courier
3. The Evidence As a Narcotis Courier

Judge's Consideration In Imposing A Criminal In Decision No. 177/Pid.Sus/2020/Pn/Psp About Couriers Narcotics is Juridical Considerations.

Juridical considerations

Are legal considerations that form the basis before deciding a case, the judge will draw facts in the trial process which are cumulative conclusions from the statements of witnesses, defendants' statements and evidence.

a. Demands Of The Public Prosecutor

That the demands of the public prosecutor against the defendants are each with the

⁹ Interview with Lucas Sahabat Duha and Hasnul Tambunan, (The Judges of Padangsidempuan District Court), at Padangsidempuan District Court.

death penalty. Public prosecutor in giving the death penalty in his charge to the defendants because the defendant is proven legally and convincingly guilty of committing the crime of "attempts or conspiracy without rights or against the law to accept narcotics class I in the form of plants weighing more than 1 kg, as regulated in Article 114 paragraph 2 Jo Article 132 paragraph 1 of Law no. 35 of 2009 regarding narcotics couriers based on the facts in the trial from May to July 2020 which were obtained both from the defendant's statement and evidence.

b. Memorandum Of Defense Of The Defendants

Memorandum of defense of the defendants through legal counsel M. Sahor Bangun Ritonga, which in essence is that the defendant is not convoluted in the trial, is not a recidivist, and promises that he will commit another narcotic

crime. M. Sahor Bangun Ritonga in the trial said that the panel of judges must be careful in considering the sanctions given because the defendants are not recidivist and the demands given by the public prosecutor are so heavy that they no longer consider human rights, namely the right to human life.

c. Statements Of The Defendants

Based on the defendant's testimony in the trial, the defendants admitted in front of the panel of judges that the defendant was indeed the perpetrator of the narcotics courier crime in which the defendants, namely ASN alias B and PR, worked as honorary and truck drivers.

The defendants were caught in the I Tor Simarsayang field at 23.00 WIB in the village of Bonan Dolok, North Padangsidimpuan

District, Padangsidimpuan City. The defendants confirmed that the defendant was carrying 241 packages of narcotics class I, marijuana, wrapped in duct tape, 8 pieces of plastic burlap sacks, white with blue and red stripes.

d. Witness Statements

Based on the facts in the trial in terms of the statements of the witnesses who were tried in the trial were witnesses DSW, LAA and FH. DSW and LAA are witnesses from members of the Padangsidimpuan City Police, who at the time of their arrest were present at the time of the incident on January 8, 2020 at 23.00 WIB in field I Torsimarsayang, Padangsidimpuan City based on information from the previous community about the truck that The thief entered the Padangsidimpuan City area and was arrested by finding evidence in the form of 241 packs of narcotics class I marijuana wrapped in brown duct tape, 8 blue plastic burlap

sacks and one white Hino dump truck. with the aim of South Tapanuli Sipirok.

e. Aggravating And Mitigating Circumstances

The mitigating and aggravating factors for the defendants in the trial are very influential in terms of the panel of judges imposing sanction for the defendants. In the decision 177/Pid.Sus/2020/Pn/Psp the mitigating thing for the defendants in the trial was that the defendants admitted honestly without resistance the defendants were the perpetrators of the narcotics courier crime, and as long as the competition continued the defendants did not fight and behaved. cooperatively, the defendants are also relatively young and will certainly not commit their crimes in the future. And what the panel of judges considers is that the defendants have never been recidivist or have never

committed a narcotic crime before and the defendants have also never committed other criminal acts, so those are some of the things that ease the punishment for the defendants in 177/Pid.Sus/2020/Pn/Psp regarding narcotics couriers.

2. Non-Judicial Consideration

Non-judicial considerations The judges' considerations in making a decision on the case of Defendant Adi Saputra Alias Boja and Defendant Pandapotan Rangkuti are as follows:

a. The Sociological Aspects

The two defendants previously indicted by the public prosecutor were capital punishment, so the panel of judges considered that this was too severe than what the defendants had done, the panel of judges considered that more consideration was needed to impose a death penalty on drug couriers because of human rights in decision no. 177/2020/Pn/Psp because

after seeing the facts in the trial the defendants were very cooperative and opened up the distribution of other drugs and were never recidivist.¹⁰

The terms fair and justice are familiar to the people of Indonesia so that the term can get great attention in Islam. In Islam, justice is a basis that must be followed. Even God himself has the attitude of the Most Just which should be emulated by each of His people. Of the many people human rights, social justice is a noble aspiration, besides that the state affirmed that the establishment of this country in order to uphold justice.¹¹

Therefore All forms of activities and actions that do not have a purpose clear, then the result will be in vain. Therefore,

¹⁰ Interview with Lucas Sahabat Duha and Hasnul Tambunan, (The Judges of Padangsidempuan District Court), at Padangsidempuan District Court.

¹¹ Ummi Kalsum Hasibuan, "Keadilan Dalam Al-Qur'an (Interpretasi Ma'na Cum Maghza Terhadap Q.S . Al-Hujurat {49} Ayat 9)," Al-Fawatih: Jurnal Kajian Al-Qur'an Dan Hadis Vol.1, no. 2 (2020), hlm. 62.

everything that should be done by humans must have a purpose. And all that is prescribed by Islam must have a purpose, at least it contains certain wisdom.¹²

The word principle comes from Arabic, namely "أسس" which means basis or principle. While the word legality comes from the Latin word *lex* (noun) which means The law, or from the word *legalis* which means legal or in accordance with the law provisions of the Act. Thus the principle of legality is "the validity of something according to law".¹³ Thus it can be ascertained that behind the composition of the Qur'an, both the verses and the letters there is a relationship, correlation, or

harmony.¹⁴

In his explanation that a person is said to be perpetrator *jarimah* if previously there was a *nash* or law that explicitly prohibits and imposes sanctions on perpetrators who are in criminal law Islam. In the decision Number 177/Pid.Sus/2020/Pn/Psp regarding the crime of drug couriers, it has been previously regulated in the Law regarding these crimes along with their sanctions, for that both in Islamic criminal law and positive criminal law it is clear that the principle of legality Islamic criminal law is the same as the positive criminal law principle in providing legal certainty regarding narcotics courier crimes.

According to Islamic law, narcotics are *haram*. This is due to the fact that drugs are classified as *muskir* objects

¹² Desri Ari Engariano, "Interpretasi Ayat-Ayat Pernikaaan Wanita Muslima Dengan Pria Non Muslim Perspektif Rasyid Rida Dan Al-Maragi," Al Fawatih: Jurnal Kajian Al-Qur'an Dan Hadis Vol.1, no. 2 (2020), hlm. 4.

¹³ Zul Anwar Ajim Harahap, "Azas Legalitas Dalam Hukum Pidana Islam", Jurnal Al-Maqasid: Jurnal Ilmu Kesyariahan Dan Keperdataan Vol. 2, no. 1 (2016): 180.

¹⁴Sawaluddin Siregar, "Munasabat Al-Quran Perspektif Burhanuddin Al-Biq'a'i," Yurisprudencia: Jurnal Hukum Ekonomi Vol. 4, no. 1 (2018), hlm. 88.

(intoxicating objects) which can cause harm to those who use them such as the destruction of the mind and the destruction of people's morals in carrying out social life. The prohibition of this drug is based on the prohibition of *khamr* which has been determined by Allah SWT and His Messenger. In classical Islamic fiqh literature (*kitab at-turast*) we do not find the word drug, but we can find similarities in the nature of the drug, including: the word *al-muskirat* (something that can intoxicate) and the word *al-mukhaddirat* (something that can erase memory). There are many types of including *al-mukhaddiratal-hasyisy*, *al-afiyun*, *al-kukayin*, *al-murfīn* and so on. the law is haram like *khamr* because it can eliminate the mind and cover it. In addition, there is also damage and harm that is in *khamr*, even greater harm, that is, it can harm the ummah, both individuals and society, both in

terms of culture and civilization. Thus, trading drugs, both producers (makers), distributors (dealers), users, carriers, senders, pourers, sellers, buyers, buyers and even the money is haram.¹⁵

The intermediary of buying and selling drugs in Islamic criminal law, is a crime that is classified as a crime *ta'zir*. That is a punishment whose crime is not listed in the Qur'an and the Sunnah of the Prophet Muhammad. Rather, the punishment is determined by the judge or the government for the perpetrators of the crime. The actions and activities of drug dealers are actions that can threaten the survival of many people and disturb the peace of society and even the state. so that it can cause human damage which in the end echoes the benefit of the people.

¹⁵ Syafar Alim Siregar, "Pengedar Narkoba Dalam Hukum Islam," *Jurnal Al-Maqasid: Jurnal Ilmu Kesyarifan Dan Keperdataan* Vol. 5, no. 1 (2019), hlm. 10.

D. Conclutions

Based on the results of previous research, the author make the following conclusions:

1. The material legal weighting against drug couriers in the decision Number 177/Pid.Sus/2020/Pn/Psp regarding drug couriers. And the weighting of article 114 paragraph 2 in conjunction with article 132 paragraph 1 of the Republic of Indonesia Law no. 35 of 2009 has fulfilled the elements of weighting against the defendants likes elements the involvement as a narcotics couriers, conspiracy as a narcotics couriers, and the evidence as a narcotics courier,
2. The judge's consideration in giving criminal sanctions to the defendant in the decision Number177/Pid.Sus/2020/Pn/Psp is correct because it considers juridical and non-juridical, but in terms of criminal sanctions imposed by the panel it is not appropriate because the judges the defendant was only a courier who had never been a recidivist and and during the direct trial process the defendants had been cooperative and honest throughout the trial process.
3. The perspective of Islamic criminal law in the decision Number177/Pid.Sus/2020/Pn/Psp has been in accordance with the basis of the judge's considerations, namely the legality principle of Islamic criminal law related to this case namely thr rule of islamic criminal law with the meaning is "No crime and no punishment except by *nash* (law)" and material law related to drug courier cases in Islamic criminal law with the meaning is "Rasulullah SAW, said: *khamar* is damned for ten things, namely the object, the extortionist of the material, the hold or storage, the seller, the trader, the bearer, the recipient, drug courier cases in Islamic law is *tak'zir* punishment.

Referensi

a. Source of Books

Kamus Besar Bahasa Indonesia, *Definisi Kurir*, (Jakarta: Lentera, 2010).

Lilik Mulyadi, *Seraut Wajah Putusan Hakim dalam Hukum Acara Pidana Indonesia*, Bandung: PT Citra Aditya Bakti.

b. Source of Journal

Engariano. Ari Desri "Interpretasi Ayat-Ayat Pernikahan Wanita Muslima Dengan Pria Non Muslim Perspektif Rasyid Rida Dan Al-Maragi." Al Fawatih: Jurnal Kajian Al-Qur'an Dan Hadis Vol.1, no. 2 2020.

Gunawan, Hendra. "Analisis Jual Beli Barang Curian Perspektif Hukum Pidana Islam." *Yurisprudencia: Jurnal Hukum Ekonomi* Vol 7, no. 1 (2021).

Gunawan, Hendra. "Sistem Peradilan Islam." *Jurnal El-Qanuniy: Jurnal Ilmu-Ilmu Kesyarahan Dan Pranata Sosial* Vol. 5, no. 1 (2019).

Harahap, Zul Anwar Ajim. "Azas Legalitas Dalam Hukum Pidana Islam." *Jurnal Al-Maqasid: Jurnal Ilmu Kesyarahan Dan Keperdataan* Vol. 2,

no. 1 (2016).

Sainul, Ahmad. "Kajian Umum Tentang Tindak Kekerasan Dalam Rumah Tangga", *Jurnal El-Qonuniy: Jurnal Ilmu-Ilmu Kesyarahan Dan Pranata Sosial* Vol. 7, no. 1 (2021).

Siregar, Sawaluddin. "Munasabat Al-Quran Perspektif Burhanuddin Al-Biq'a'i." *Yurisprudencia: Jurnal Hukum Ekonomi* Vol. 4, no. 1 (2018).

Siregar, Syafar Alim. "Pengedar Narkoba Dalam Hukum Islam." *Jurnal Al-Maqasid: Jurnal Ilmu Kesyarahan Dan Keperdataan* Vol. 5, no. 1 (2019).

Ummi Kalsum Hasibuan. "Keadilan Dalam Al-Qur'an (Interpretasi Ma'na Cum Maghza Terhadap Q.S . Al-Hujurat {49} Ayat 9)." *Al-Fawatih: Jurnal Kajian Al-Qur'an Dan Hadis* Vol. 1, no. 2 (2020).

c. Source of Law

Interview With Lucas Sahabat Duha And Hasnul Tambunan, (The Judges Of Padangsidempuan District Court), At Padangsidempuan District Court.

Law Number 35 Of 2009 Concerning Narcotics.

Law Number 8 1981 Concerning Criminal Proccesure Law .