

# LEGAL CERTAINTY FOR LIFE IMPRISONMENT AS AN ALTERNATIVE TO PUNISHMENT



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## Abstract

This research aims to determine the legal certainty of life imprisonment as an alternative punishment and to find out the basis and regulations regarding the explanation of life imprisonment. This research is normative juridical legal research using an approach through applicable statutory regulations (statute approach), library data, and regulations relating to the issues and problems of cases that occur. The research method uses a method by collecting materials obtained from library data in the form of (1) Primary legal materials, namely basic information that is mandatory and also contains legal rules. (2) Secondary legal materials, namely academic books related to theory and research results. (3) Tertiary legal materials, namely information that provides instructions and explanations about primary and secondary legal information, such as internet media and articles. The results of the research show that life imprisonment is implied in the legislation in force in Indonesia. The application of life imprisonment is based on the idea that life imprisonment can be imposed as an alternative to sentencing for types of acts that are punishable by the death penalty.

**Keywords:** legal certainty, criminal, prison, life

## Introduction

If you look at the practice in a court, it seems as if crime and punishment are something easy. A defendant will be examined by a panel of judges in front of the court based on the public prosecutor's accusations. Then the public prosecutor reads out his demands and indictment, followed by the legal advisor or defense attorney presenting his defense, then the panel of judges considers two things, namely the criminal act and the elements of error. The final thing is the reading of the verdict, where the panel of judges will give several considerations before handing down their decision. These include whether he has been convicted or not, whether his attitude is polite or not, whether there is a feeling of regret or not, the nature of the criminal act and its consequences for society, and so on. It looks so natural and ordinary; it even seems so easy. However, if these things are analyzed further, various questions and problems will arise from a theoretical perspective.

Bianchi wrote, "The term criminal is a word loaded with emotion. [...] The uncontrolled expression of feeling in the use of a term with intense emotion, can often be so far off the mark, that the speaker is completely unaware that he is not talking about a crime, but shows his views on something else. [...] The value of emotions or criminal terms often appears in history."

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## **INTRODUCTION**

It turns out that Bianchi is not the only one who sees that the term criminal is full of various meanings and interpretations. In *Studies in Jurisprudence and Criminal Theory*, Jerome Hall writes that the meaning of crime can be interpreted in various ways. According to Hall, language difficulties regarding new criminal terms can be overcome if given specific explanations. This proves that experts from various disciplinary backgrounds are trying to provide answers, both to the meaning and problems of crime itself, as well as general and commonly used criminal theories.

Bianchi and Jerome Hall's statement proves that an agreement, both in theory and practice, cannot yet be achieved. Problems in criminal law cannot be separated from criminal theories, and one that is still being debated is life imprisonment. Several opinions that provide definitions of life imprisonment:

- Life imprisonment is imprisonment as long as the convict is still alive and the sentence will only end when he dies.
- A life sentence is a sentence imposed on someone who has committed a grave crime.

Life imprisonment is a hope for the victim and his family when the death penalty that is expected to be imposed on the perpetrator of the crime cannot be realized. However, in reality, there is a feeling of disappointment when the implementation of life imprisonment is not as expected. Imposing the death penalty and life imprisonment is indeed a very dilemma, especially since there are many groups and human rights activists who reject the death penalty. This is acceptable because the death penalty in the Netherlands was repealed in 1870.

As happened in the murder case of Brigadier Nofriansyah Joshua Hutabarat (Brigadier J) which was carried out by his superior, Inspector General Ferdy Sambo. The case became public and was reported by foreign media. Where Sambo, for his actions that encouraged other people to commit murder, resulted in the death penalty for himself. However, in the end, the Supreme Court canceled the death penalty and replaced it with life imprisonment. This disappointed Brigadier J's family, and of course, set a bad precedent for Indonesian law and the image of the judiciary in the eyes of the world.

Understanding the meaning of life imprisonment as a form of punishment adopted in the criminal system in Indonesia in practice still raises various questions in society, especially those seeking justice. If life imprisonment can be given as an alternative, then the meaning of life imprisonment is lost and there is no legal certainty. So this raises questions in society.

Many opinions are circulating regarding life imprisonment. Some believe that life imprisonment is a sentence imposed by a judge where the length of the sentence depends on the age of the convict. For example, if he commits a crime and is sentenced to life imprisonment, at the time of the sentence the convict was 21 years old, so the life imprisonment sentence will be served for 21 years. Different opinions state that life imprisonment is a sentence that is imposed and served as long as he lives, he continues to be in prison without that period or you could say that until he dies he continues to be in prison. Which is true? What are the basics and regulations regarding the explanation of life imprisonment?

The existence of these two different opinions strengthens Bianchi and Jerome Hall's statement which proves that an agreement, both in theory and practice, cannot yet be achieved. Based on this, the author tries to analyze it further by presenting it in a study entitled *Legal certainty regarding life imprisonment as an alternative punishment*.

### **Formulation of the problem**

Based on the description of the background above, two (2) questions arise which form the problem formulation, namely:

1. Why is life imprisonment an alternative punishment?
2. What are the basics and regulations regarding the explanation of life imprisonment?

This research aims to determine the legal certainty of life imprisonment as an alternative punishment and to find out the basis and regulations regarding the explanation of life imprisonment.

## **RESEARCH METHODS**

This research is normative juridical legal research using an approach through applicable statutory regulations (statute approach), library data, and regulations relating to the issues and problems of cases that occur. So the method collected by the author uses a method by collecting materials obtained from library data in the form of (1) Primary legal materials, namely basic information that is mandatory and also contains legal rules. (2) Secondary legal materials, namely academic books related to theory and research results. (3) Tertiary legal materials, namely information that provides instructions and explanations about primary and secondary legal information, such as internet media and articles.

## **RESEARCH RESULTS AND DISCUSSION**

### **1. Crime and Punishment**

In simple terms, criminal law is a law that regulates actions that are prohibited by law and what sanctions can be imposed on the perpetrators. We can view criminal law as a juridical lens that is most sensitive to changes in culture, as well as social conditions in general in all situations where humans exist. Criminal law does not only touch people who commit crimes but also touches their victims. Then judges, prosecutors, police, and correctional officers were involved. It even involves all levels of society with the actions of criminals which cause reactions from victims and government officials.

Discussing the concept of criminal law for ordinary people in general, 2 (two) things will come to mind. First, in our imagination, there will be various actions carried out by criminals, from theft, mugging, murder, and rape, to corruption. Then our imagination depicts the arrest of the perpetrators of the crime, the trial in court, and finally, the prison which is now called a penitentiary.

Second, what do we imagine about the perpetrators of these crimes? So we can imagine that the perpetrators of crimes come from economically weak groups, marginalized groups and are brutal. So it is not an exaggeration if crime is considered a social problem that generally originates from economic difficulties or poverty.

The things described in the first point above (committed by criminals) constitute a criminal act, which is related to punishment. Punishment is directly related to wrongful acts or omissions, so in other words punishment would not be possible without an error. The criminal objectives to be achieved according to Lamintang as quoted by Tina Asmarawati include three (3) things, namely:

- a) For the personal betterment of the criminal himself.
- b) To deter people from committing crimes.
- c) Making certain criminals incapable of committing other crimes, namely criminals who by other means can no longer be corrected.

In Law No. 1 of 2023 concerning the Criminal Code (National Criminal Code), the purpose of punishment is stated in the provisions of Article 51 as follows:

- a. Prevent the commission of acts by enforcing legal norms for the protection and protection of society;
- b. Socializing convicts by providing training and guidance so that they become good and useful people;
- c. Resolving conflicts caused by criminal acts, restoring balance, and bringing a sense of security and peace in society; And
- d. Foster a sense of remorse and relieve the convict of guilt. Punishment is not intended to degrade human dignity. (Article 52 of the National Criminal Code).

Immanuel Kant, the German philosopher who adhered to the absolute theory, argued that the severity or lightness of a crime that can be imposed on a perpetrator must be based on the principle of balance (also beginsel). So if you follow the theory presented by Kant, if someone commits a pre-planned murder, then the absolute penalty imposed on him is the death penalty.

Article 10 of the Criminal Code states that punishment consists of main punishment and additional punishment. Where the main penalties consist of the death penalty, imprisonment, imprisonment, fines, and cover-up penalties. Meanwhile, additional penalties consist of revocation of certain rights, confiscation of certain items, and announcement of the judge's decision.

Imprisonment is a crime in the form of restrictions on the movement of a convict, which is carried out by closing the person in a correctional institution, by requiring that person to obey all the disciplines and rules that apply in the correctional institution, which is associated with disciplinary action for those who have violated these regulations. Prison in English is imprisonment, which comes from the French empire. This word originates from Latin, namely *prensio*. Imprisonment means an action based on a court decision that imposes a crime by placing a convict separated from the outside community and closed in a correctional institution. Regarding life imprisonment, this is stated in Article 12 paragraph (1) of the Criminal Code.

## 2. Life imprisonment

As has been stated, the prison sentence in Article 10 letter (a) of the Criminal Code is placed in second place, namely below the death penalty. This shows the severity of the prison sentence, which is only less severe than the death penalty. In Chapter II of the Criminal Code, many articles regulate imprisonment, in contrast to the death penalty which is only regulated in one article, namely Article 11. Specifically, imprisonment is regulated from Article 12 to Article 17 of the Criminal Code.

Article 12 of the Criminal Code stipulates that imprisonment (*gevangenisstraf*) can be of two types, namely: (1) life imprisonment (*levenslang*); and (2) temporary imprisonment (*tijdelijk*). What is meant by life imprisonment (*levenslang*/life imprisonment)? Is the prison sentence for the convict until the end of his life? Or, a prison sentence whose length is the same as the age of the convict? The meaning of life imprisonment needs to be clarified because there is a misunderstanding of the term "lifelong". The following are several opinions that provide definitions of life imprisonment quoted by the author from several web pages:

- a) A sentence of imprisonment until death (a sentence in prison until the convict dies).
- b) Any sentence of imprisonment for a serious crime under which the convicted person is to remain in prison for the rest of his or her life or until paroled his life or he is paroled on parole).
- c) The punishment of being kept in prison for the rest of one's life (a punishment that places the convict in prison until the end of his life).
- d) The punishment of being put in prison for a very long time without an arranged time for release or, in the US, until death (a punishment of placing a convict in prison for a very long time without an arranged time for release, as in the United States, until the end of his life convict).
- e) In the opinion of criminal law experts Roeslan Saleh and Achmad Ali, life imprisonment means that the convict serves the sentence for the rest of his life.

All these definitions mean the same thing as life imprisonment, which means imprisonment that must be served throughout the convict's life until he dies, which is different from a temporary sentence, for example, 15 years. However, there are different provisions in each country, and life imprisonment can eventually be changed to temporary imprisonment, for example, 20 years.

The regulation of life imprisonment is contained in Article 12 paragraph (1) of the Criminal Code (KUHP) which reads "The prison sentence is for life or for a certain period of time." However, there is no definition of life imprisonment in terms of formal legal limits, how long does a prisoner have to spend in prison? The provisions of Article 12 of the Criminal Code, if made simply, would look like the table below.

PRISON CRIMINAL		
Lifetime	Maximum 15 years	Temporary
		The longest is 20 years
		There are criminal alternatives for criminal acts, which are punishable by death life imprisonment, or 20 years
		There is an additional criminal threat due to concurrent criminal acts

		Because there are aggravating reasons in the form of repetition of crimes
		Because of the provisions for aggravating reasons in Article 52 of the Criminal Code

Topo Santoso explained that there is a misconception regarding life imprisonment, namely "the age of the defendant" so that if the defendant is 30 years old, if he is sentenced to life imprisonment, he will serve 30 years in prison. This understanding is wrong because it is certainly very unfair and unreasonable. With this understanding, if the defendant is 20 years old, he will only be imprisoned for 20 years, whereas if the defendant is older, for example, 90 years old, he will be sentenced to 90 years.

The view of legal experts Roeslan Saleh and Achmad Ali means that a life imprisonment sentence means that the convict serves the sentence for the rest of his life. This means that the convict must survive in prison until death takes him from the Almighty, not from execution carried out by the authorities. However, prisoners serving life sentences can apply for remission to the Ministry of Law and Human Rights through the correctional institution where they are detained. Among the crimes punishable by life imprisonment in the Criminal Code are:

- a. Criminal acts against state security (Articles 104, 106, 107 paragraph 2, 108 paragraph 2, 111 paragraph 2, 124 paragraph 2, and 124 paragraph 3);
- b. Criminal acts against friendly countries and heads of friendly countries (Article 140 paragraph 3);
- c. Criminal acts that endanger the public interest (Articles 187, 198, 200, 202 paragraph 2], and 204 paragraph 2);
- d. Crimes against life (Articles 339 and 340);
- e. Theft accompanied by violence or threats of violence (Article 365 paragraph 4);
- f. Extortion and threats (Article 368 paragraph 2);
- g. Shipping crime (Article 444);
- h. Aviation crime (Article 479 f sub b, 479 k paragraphs 1 and 2, and 479 paragraphs 1 and 2).

In criminal regulations outside the Criminal Code (special criminal law), there are also several offenses which are punishable by life imprisonment, namely:

- 1) Corruption crimes (Article 2 paragraph 1 and Article 3 of Law No. 31 of 1999 concerning the Eradication of Corruption Crimes);
- 2) Criminal acts of terrorism (Articles 6, 7, 8 9, 10, 10A paragraphs 1, 14, 15, and 16 of Law No. 5 of 2018 concerning Eradication of Criminal Acts of Terrorism);
- 3) Criminal acts against human rights (Articles 36, 37, and 41 of Law No. 26 of 2000 concerning Human Rights Courts);
- 4) Narcotics crimes (Articles 111 paragraph 2, 112 paragraph 2, 113 paragraph 2, 114 paragraph 1, 114 paragraph 2, 115 paragraph 2, 116 paragraph 2, 118 paragraph 2, 119 paragraph 2, and 121 paragraph 2 of Law No. 35 2009 concerning Narcotics);
- 5) Psychotropic crime (Article 59 paragraph 2 of Law No. 5 of 1997 concerning Psychotropic Substances).

### **3. Life imprisonment as an alternative punishment**

Calls for a moratorium on the death penalty have occurred since the time of President Susilo Bambang Yudhoyono who declared war on drugs. During the 10 (ten) year period of President Susilo Bambang Yudoyono's administration, death penalty sentences have been handed down 143 times and executions have been carried out for 16 (sixteen) convicts. During the period of President Joko Widodo's administration from 2014 to 2019, there were 221 death penalty sentences handed down over the last five years at various court levels in Indonesia. Of this figure, 166 people were sentenced to death for drug cases, 51 people for murder cases, three people for violent theft cases, and one person for terrorism cases. The push to abolish the death penalty and a moratorium on the decision and application of the death penalty is motivated by two reasons:

- 1) Protection of the right to life for every person is guaranteed in the 1945 Constitution and Law Number 39 of 1999 concerning Human Rights, including the International Covenant on Civil and Political Rights which has been promulgated through Law Number 12 of 2005.
- 2) The existence of perverted justice which was found by Komnas HAM, both in monitoring the human rights situation and in the studies that have been carried out. Observations regarding this trial were also noted by various civil society groups active in human rights issues, including defending the right to life from the death penalty.

The visible policy regarding the regulation of life imprisonment in the Criminal Code can be seen from the formulation of the form of criminal threat, such as:

- a) Life imprisonment is almost always an alternative punishment to the death penalty.
- b) Life imprisonment is always an alternative to a maximum term of imprisonment, namely 20 (twenty) years.

So in the form of the formulation of the threat of life imprisonment in Book II of the Criminal Code, there are 9 (nine) types of criminal acts threatened as an alternative to the death penalty, namely:

- 1) Cause planes to be destroyed, and people to die.
- 2) Violence causes someone on the ship to be attacked, the captain, the leader, and those who participate.
- 3) Blackmail and threats.
- 4) Theft with violence.
- 5) Premeditated murder.
- 6) Treason against life with planning.
- 7) Assisting the enemy during war.
- 8) Dealing with the enemy in war.
- 9) Treason against the president or vice president.

Meanwhile, in the form of formulations outside the Criminal Code which are special criminal acts, they are explained in each law which has unique characteristics. As in Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, explained in Article 2 paragraph (1) "it is against the law to commit acts of enriching oneself or another person or a corporation which can harm state finances or the state economy". Article 3 "benefits oneself or another person or a corporation, abuses the authority, opportunities or facilities available to him because of his position or position which can harm the state's finances or the state's economy." Corruption has caused enormous state losses which in turn can have an impact on the emergence of crises in various fields. However, in reality, not a single corruptor has been sentenced to life imprisonment.

Law Number 35 of 2009 concerning Narcotics, wherein the general explanation is stated that Narcotics are substances or drugs that are very useful and necessary for the treatment of certain diseases. However, if it is misused or used not by treatment standards, it can have very detrimental consequences for individuals or society, especially the younger generation. One of the articles the author quotes is Article 114 paragraph (1) "without right or against the law offering for sale, selling, purchasing, receiving, becoming an intermediary in buying and selling, exchanging or handing over Class I Narcotics". Paragraph (2) "offers for sale, sells, buys, becomes an intermediary in buying and selling, exchanges, delivers or receives Class I Narcotics as intended in paragraph (1) which in plant form weighs more than 1 (one) kilogram or exceeds 5 (five) tree trunks or in non-plant form weighing 5 (five) grams".

#### **4. Life imprisonment in Law Number 1 of 2023 concerning the Criminal Code**

The new law will take effect on January 2 2026 and has a different definition of life imprisonment. According to the new Criminal Code, also known as the National Criminal Code, imprisonment can be imposed for life or a certain period. Imprisonment for a certain period is imposed for a maximum of 15 consecutive years or a minimum of one day unless a special minimum is specified. Furthermore, if there is a choice between the death penalty and life imprisonment or there is a criminal aggravation for a criminal offense that carries a prison sentence of 15 years, the prison sentence for a certain period can be imposed for a period of 20 consecutive years. However, a prison sentence for a certain period cannot be imposed for

more than 20 years.

By the provisions of Article 69 paragraph (1) of Law Number 1 of 2023 concerning the Criminal Code, life imprisonment can be changed to 20 years imprisonment, by Presidential Decree after receiving consideration from the Supreme Court. These provisions will be regulated by Government Regulation.

## **5. Life Imprisonment Sentences Applicable in Other Countries**

### **A. Singapore**

Singapore also imposes a sentence of life imprisonment. More than 40 offenses under Singapore law carry up to life imprisonment, in addition to caning or fines for certain offenses. For example, cases of murder attempted murder which results in serious injury, kidnapping for ransom, criminal breach of trust by a public servant, accidentally using a dangerous weapon that causes serious injury, firearms trafficking, and so on.

In fact, since January 1, 2013, the death penalty law was amended in Singapore which gives judges the freedom to impose life imprisonment as the lowest penalty with certain conditions for cases of drug trafficking and attempted murder. A survey conducted by Minister of Law K. Shanmugam in 2020 proved that 80% of Singaporeans and non-Singaporeans stated that the death penalty was harsher and more effective than life imprisonment as a deterrent against serious offenses. The most recent case in Singapore is that of 22-year-old Zin Mar Nwe, who was found guilty of murdering an elderly woman in 2018. He was sentenced to life imprisonment on 4 July 2023.<sup>1</sup>

### **B. Netherlands**

The Criminal Code used in Indonesia is based on the Dutch Criminal Code, although there have been many changes to it. However, there is one thing that cannot be removed, namely the Continental European color of Dutch law. The Dutch Criminal Code has undergone many changes, such as prison sentences. The Netherlands already has a prison sentence of 30 years, while in Indonesia itself the maximum is 15 years plus 1/3 if there is an aggravation to 20 years or as an alternative to the death penalty, life imprisonment which must be followed by the phrase "or 20 years". In Article 289 of the Dutch Criminal Code, the offense of premeditated murder (*meet voor bedachtenrade*) which they call *moord*, carries the same criminal threat, namely life imprisonment or a maximum of 30 years or a category V.<sup>2</sup>

## **6. Life imprisonment in several criminal decisions**

To provide an overview of the imposition of life imprisonment, the author took several court decisions that occurred in several courts. Some cases where the perpetrator was prosecuted and sentenced to life imprisonment are as follows:

a) Decision Number 50/Pid.B/2023/PN Pkb

This decision tried a case of theft with violence in aggravating circumstances causing the death of the victim.

### **Case Position:**

Defendant Yd Als By Bin Whn together with witness Kln Als K Bin R (deceased) (Separate Prosecution File), witness Mh R Bin S (Separate Prosecution File), and Br. Kvn Als P Als Pi (Died) on Wednesday 12 October 2022 at around 00.00 WIB intended to steal a wallet bird's nest at the house of victims Sri Narti and Sunardi. Previously they bought a package of crystal methamphetamine for IDR 200,000 and used it. The defendants entered the victim's house by one of them first prying open the window to open the door for the others.

After they entered the house, the defendants went into the back room of the victim's house and saw the victim Sri Narti sleeping on the bed face down. Immediately, Mr. Kvn Als P Als Pi covered Victim Sri Narti's mouth and face using a pillow. The victim woke up and struggled, then was hit on the head with his bare hands and kicked repeatedly on the head and body of the victim Sri Narti by Mr. Kvn Als P Als Pi and witness R Bin S. Because the victim was still fighting, witness Kln Als K hit the victim on the head using

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<sup>1</sup> Anonim, "Life imprisonment in Singapore", <https://en.wikipedia.org/>, diunduh 04/10/2023, jam 20:55 WIB

<sup>2</sup> Andi Hamzah, *op.cit.*, pp. 25.

wheel iron 3 (three) times. This made the victim Sri Narti's head bleed and she became unconscious. Then the victim's hands and feet were tied with rubber tires. Bro. Kvn Als P Als Pi took the gold bracelet worn by the victim and the gold necklace worn around the victim Sri Narti's neck.

At the time of this incident, the defendant Yd Alias By Bin Whn was just watching, holding a machete while standing guard in the back area to monitor if there were residents who would catch the defendants' actions. Next, witness Mh R left the room and went to the shop in front of the victim's house at that time Mr. Kvn Als P Als Pi had covered victim Sunardi's mouth while witness Kln Als K held victim Sunardi's legs using rubber tires so that victim Sunardi struggled so that witness Mh R hit victim Sunardi's shoulder, while witness Kln Als K hit victim Sunardi on the head using an iron wheel 3 (three) times and witness Mh R Bin S hit and kicked victim Sunardi's head and body many times as a result of the perpetrators' actions causing victim Sunardi to become unconscious.

***Public Prosecutor's Indictment:***

a. First Indictment

- Primary Article 340 of the Criminal Code in conjunction with Article 55 paragraph (1) 1st of the Criminal Code
- Subsidiary of Article 338 of the Criminal Code in conjunction with Article 55 paragraph (1) 1st of the Criminal Code

b. Second Indictment

- Article 365 paragraph (4) of the Criminal Code, Demands:
- Article 365 Paragraph (4) of the Criminal Code in the Second Indictment and the death penalty is required.

***Decision:***

- a. Declare that Defendant YD ALS BY BIN WHN as mentioned above, has been legally and convincingly proven guilty of violating Article 365 Paragraph (4) of the Criminal Code, namely committing the crime of theft with violence in aggravating circumstances causing death as in the second alternative indictment.
- b. Sentence the Defendant to life imprisonment.

***Analysis***

Based on Decision Number 50/Pid.B/2023/Pangkalan Balai District Court, the Panel of Judges deemed it appropriate to use Article 365 Paragraph (4) of the Criminal Code as the basis for punishment. Bearing in mind that the crime committed by the defendant was a crime of theft which was preceded, accompanied, or followed by acts of violence which resulted in the deaths of 2 victims who were a married couple. In terms of making someone faint or helpless, it can be equated with using violence, which is stated in Article 89 of the Criminal Code. Even though the defendant YD ALS BY BIN WHN did not commit violence, only standing guard behind the house holding a machete, the defendant is considered to have conspired in committing this crime. The life imprisonment sentence imposed on the defendant is an alternative punishment to that of the Public Prosecutor who charged him with the death penalty.

a) Decision Number 250/Pid.Sus/2019/PN.Tbk

This decision prosecuted a criminal conspiracy to act as an intermediary in handing over Class I narcotics weighing more than 5 (five) grams.

***Case Position:***

The defendants are AS Als R BIN MS, witness Hr BIN SBT, witness Pnd Als B BIN SBT, witness Jfr BIN SBT, witness MFP BIN A, witness EAK BIN AG, witness FH BIN F and witness MSS BIN ZA (separately prosecuted). The case began with information given to officers from the BNNP (Provincial National Narcotics Agency) in Riau Islands from an informant who explained that tonight drugs would be imported from Malaysia into the waters of Tanjung Balai Karimun. Based on this information, the officers and the informant moved to carry out an investigation. Long story short, based on this information, MSS and BADUT were arrested and interrogated by members of the Riau Islands Provincial National Narcotics Agency (BNNP), then based on their confessions, BADUT took officers to a house on Rt. 01 Rw. 02 Judah



Island, Keban Village, Moro District, Karimun Regency, Riau Islands Province. At this house, Kepri BNNP officers arrested P Als B BIN SBT, Defendants AS Als R BIN MS, EAK BIN AG, MFP BIN A, FH BIN F, Jfr BIN SBT, H BIN SBT, and MSS BIN ZA, and also secured evidence. in the form of 1 (one) red burlap bag, containing clear plastic coated with brown cardboard containing a black BGB brand speaker which contains 1 (one) gold pack of Lima brand and 25 (twenty-five) packs of Guanyinwang brand Chinese tea. green with a total gross weight of 25,929 (twenty-five thousand nine hundred twenty-nine) grams. However, while securing the evidence, 3 (three) people named KANCIL, BADUT, and BOTAK ran away. Then the perpetrators and evidence were taken to the BNNP Kepri office for further examination.

Based on the facts revealed in the trial, the defendant AS Als R BIN MS collaborated with the witnesses Hr BIN SBT, Pnd Als B BIN SBT, Jfr BIN SBT, M. FP BIN A, EAK BIN AG, FH BIN F and MSS BIN ZA to offer selling, selling, buying, receiving, being an intermediary in buying and selling, exchanging or handing over Class I Narcotics in non-plant form without having permission from the competent authority. The defendant was willing to accept the job because he was promised a salary of IDR 200,000,000 (two hundred million rupiah) by Mr. Nrk.

***Public Prosecutor's Indictment:***

a. First Indictment

- Article 114 paragraph (2) Jo Article 132 paragraph (1) Law no. 35 of 2009 concerning Narcotics.

b. Second Indictment

- Article 112 paragraph (2) Jo Article 132 paragraph (1) Law no. 35 of 2009 concerning Narcotics.

c. Third Indictment

- Article 113 paragraph (2) Jo Article 132 paragraph (1) Law no. 35 of 2009 concerning Narcotics.

***Demands:***

- Article 114 paragraph (2) in conjunction with Article 132 paragraph (1) Republic of Indonesia Law No.35 of 2009 concerning Narcotics.

***Decision:***

- a. Declare that the Defendant AS ALIAS R BIN MS has been legally and convincingly proven guilty of violating Article 114 paragraph (2) in conjunction with Article 132 paragraph (1) of Republic of Indonesia Law Number 35 of 2009 concerning Narcotics. By committing the crime of "having a malicious intent to act as an intermediary in handing over Class I narcotics weighing more than 5 (five) grams" as in the first indictment of the Public Prosecutor.
- b. Sentencing the Defendant to be sentenced to life imprisonment.

***Analysis***

In this case, decided by the Tanjung Balai Karimun District Court, it is classified as a serious crime outside the Criminal Code, namely class I narcotics. The threat of criminal punishment is life imprisonment or imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years and a minimum fine of IDR 1,000,000,000.00 (one billion rupiah) and a maximum of IDR 10,000,000,000.00 (ten billion rupiah). Narcotics crime is a crime that damages the mental health of the nation's generation, so the perpetrator deserves the death penalty. The defendant received a salary of Rp. 200,000,000 (two hundred million rupiah) for each collection of methamphetamine narcotics ordered by Mr. Nrk, and the defendant has done it 4 times.

The facts in the trial stated that the defendant, AS Als R BIN MS, was an intermediary in handing over Class I narcotics whose weight exceeded 5 (5) grams. His actions constituted the act of distributing narcotics without authorized permission as stated in Article 35 of the Republic of Indonesia Law Number 35 of 2009 Narcotics.

a) Decision Number 36/Pid.B/2016/PN.MLL

Crime of Premeditated Murder and Child Abuse Resulting in Serious Injuries.

***Case Position:***

The defendant AR alias AWI (33 years old) felt hurt towards his wife Jendril Tandioga alias Turu. The defendant felt hurt towards his wife because she asked for a divorce due to the defendant often beating her and the defendant thought that the witness' parents always interfered in his household affairs. One week

before the incident, the defendant had contacted his wife via telephone and SMS while she was in Tana Toraja, and said "If you don't come home, I will kill your parents," which means "If you don't come home, I will kill your mother." and the defendant once sent an SMS to his wife saying "I will burn your house" which means "I will burn your house".

Then on Wednesday, December 15 2010 at around 23:00 WITA, while the defendant was riding his motorbike, he suddenly remembered his wife, causing the defendant to feel hurt towards his wife. Next, the defendant turned his motorbike towards his wife's house in Angkona Hamlet, Tampinna Village, East Luwu Regency. On the way, the defendant stopped to buy petrol and put it in a bottle, then stored it in the trunk of his motorbike. Then continued his journey to his wife's house. Arriving at his wife's house, the defendant took a bottle containing gasoline from the trunk of his motorbike and walked towards his wife's house. Because his wife's house was locked and the lights were off, the defendant went to the side of the kitchen of the house and climbed the wall of the house.

Inside the house, the defendant approached the bed which was covered with a mosquito net, and opened it. In the bed, the defendant saw his wife (Jendril Tandioaga alias Turu) asleep with Sestika Santika alias Atun (12 years old) and the victim Christina Tandioaga who was his father-in-law. The defendant then took a ladle and poured gasoline from the bottle he was carrying into the water ladle,

Without thinking, the defendant immediately poured the petrol onto the bed net where his wife Jendril Tandioaga alias Turu was sleeping with Sestika Santika alias Atun and the victim Christina Tandioaga. The defendant then took a piece of cloth and dipped it in a ladle that still contained gasoline, then the defendant lit a match and set the piece of cloth on fire, after which the defendant threw the burning piece of cloth towards the bed. As a result, the bed immediately caught fire and burned his wife, Sestika Santika alias Atun, and the victim Christina Tandioaga.

Christina Tandioaga, who is the defendant's father-in-law, was declared dead after being treated at the Lagaligo I Regional General Hospital. His wife and Sestika Santika alias Atun suffered burns.

***Public Prosecutor's Indictment:***

a. First Indictment

- Primair: Article 340 of the Criminal Code
- Subsidiary: Article 187 paragraph (3) of the Criminal Code
- More subsidiary: Article 338 of the Criminal Code
- More subsidiary: Article 353 paragraph (3) of the Criminal Code
- More Subsidiaries: Article 351 paragraph 3 of the Criminal Code.

b. Second Indictment

- Primair: Article 80 paragraph (2) Law Number 23 of 2002 concerning Child Protection.
- Subsidiary: Article 80 paragraph (1) Law Number 23 of 2002 concerning Child Protection.

***Demands:***

Criminal Complaint/Requisitoir Public Prosecutor No. Reg. In case PDM-09/MLI/Ep.2/03/2016, the defendant AR Alias AWI was sentenced to prison for 20 (two twenty) years with a reduction for the time the defendant was in detention.

***Decision***

- a. Declare that Defendant AR Alias AWI has been legally and convincingly proven guilty of violating Article 340 of the Criminal Code, and Second Article 80 Paragraph (2) of Law no. 23 of 2002 concerning Child Protection, namely committing the crime of Premeditated Murder and Maltreatment of Children Which Resulted in Serious Injuries, as in the first and second Primair charges.
- b. Sentencing the defendant in the form of life imprisonment.

***Analysis***

The actions of the defendant AR Alias AWI were a very cruel act, which caused a 12-year-old child (SS) to lose one of his five senses, losing his motor function (Article 90 of the Criminal Code). This can be categorized as child abuse that results in serious injuries. Meanwhile, the death of his father-in-law was categorized as premeditated murder, which was proven by an SMS when his wife was in Tana Toraja, saying "If you don't come home, I'll kill your parents", buying petrol which was put in a bottle before going to his wife's house.

In the consideration of the Panel of Judges, there were no mitigating circumstances at all it turned out that the defendant was a recidivist, his actions were very inhumane, he violated his human right to life, he ran away to avoid legal proceedings against himself, and he often committed domestic violence against his wife. The judge considered that it was impossible to reduce the life imprisonment sentence in his decision.

## CONCLUSION

1. Currently, life imprisonment is implied in the legislation in force in Indonesia. The application of life imprisonment is based on the idea that life imprisonment can be imposed as an alternative to sentencing for types of acts that are punishable by the death penalty.
2. Article 12 paragraph (1) of the Criminal Code (KUHP) and Article 68 paragraph (1) of Law Number 1 of 2023 concerning the Criminal Code, are the basis for life imprisonment. In Article 12 of the Criminal Code, there is an alternative punishment for criminal acts, which is punishable by death or life imprisonment or 20 years. The explanation for life imprisonment is that the convict must remain in prison until death takes him from the Almighty, not from execution carried out by the authorities.

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