



Gogoli's Penalty in Renewing Death Sanction to Immigrants of Narcotics Crimes in Indonesia (Study on The Age of Buton Sultanate)

La Ode Bunga Ali¹ Muh Sutri Mansyah²

¹Faculty of Law, Universitas Dayanu Ikhsanuddin, Bau-Bau, Sulawesi Tenggara, Indonesia

²Postgraduate Program Faculty of Law, Universitas Brawijaya, Malang, Indonesia

Received February 25 2018, Accepted July 15 2018, Published November 30 2018

DOI: 10.15294/ijcls.v3i2.17169

How to cite:

Ali, L.O.B & Mansyah, M.S. (2018). 'Gogoli's Penalty in Renewing Death Sanction to Immigrants of Narcotics Crimes in Indonesia (Study on The Age of Buton Sultanate)', *Indonesian Journal of Criminal Law Studies* 3(2): 99-110. DOI: 10.15294/ijcls.v3i2.17169

Abstract

Currently, the country of Indonesia is experiencing unresolved narcotics problems. various efforts to eradicate and prevent narcotics have been done, but have not caused a deterrent effect in law enforcement. There is a difficulty in eradicating it to its roots, it becomes one of the obstacles experienced by our law enforcement officers, in this study using normative juridical research method with historical approach, conceptual approach which has been studied the customary criminal sanction which is applicable during the reign of the buton sultanate and obstacles in the application of gogoli punishment. The results of this study indicate that the renewal of national criminal law in relation to criminal sanctions may originate from customary law prevailing in the sultanate of buton as intended is gogoli punishment, while the concept of gogoli punishment is a rope encircled on the body of a person convicted and withdrawn by in opposite direction until the loss of endurance or death, the punishment is included in the type of death penalty, this is relevant to immigrants who commit a narcotics criminal act in Indonesia which has been sentenced to death several times but apparently until now still not cause effects, the authors has the hope that the punishment can be applied nationally considering narcotic criminal acts that occur almost throughout the region and will damage the morale of the nation today.

Keyword: Gogoli punishment, eradication of narcotics criminal act, Buton Sultanate

INTRODUCTION

Today's development has its own challenges, one of which is the act of crime that occurs in almost all regions in Indonesia and the people who do it are from local

*Email: laodebungaali@gmail.com, muhsutrimansyahr@gmail.com

Address: Faculty of Law, Universitas Brawijaya, Malang, Jawa Timur, Indonesia

This work is licensed under a Creative Commons Attribution-Non Commercial ShareAlike 4.0 International License. All writings published in this journal are personal views of the authors and do not represent the views of this journal and the author's affiliated institutions.

people but do not rule out foreigners or foreign citizens with different *modus operandi* different from everyone, of course in law enforcement in Indonesia must be based on law. This is stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which reads "the state of Indonesia is a legal state" so that it is proper for every person residing in Indonesia to be subject to applicable laws in Indonesia even though the person is from other countries.

However, the problem that often occurs is criminal acts of narcotics, as for the many goods originating from abroad so that using the services of foreigners to bring narcotics to Indonesia, of course is an illegal act because narcotics crime has been regulated in Law No. 35 of 2009 regarding Narcotics, the establishment of the law is a consistent proactive attitude Indonesia supports the international world movement in combating all forms of narcotics crimes, proactively symbolized by the Issuance of Law Number 7 of 1997 concerning Ratification of the United Nations Convention Against Illicit Traffic In Narcotic Drugs and Psychotropic Substance, 1988 (United Nations Convention on the Eradication of the Illicit Circulation of Narcotics and Psychotropic, 1988) and Law Number 8 of 1976 concerning the Ratification of the Single Convention on Narcotics 1961 and the 1972 Protocol that amended it (Syamsuddin, 2014: 90). But it turns out that it still has not caused a deterrent effect on the perpetrators of narcotics crimes, such as for foreign nationals (foreigners) many are also involved in legal cases in Indonesia. Statistical data from the Directorate General of Corrections shows that foreigners in Indonesia in March 1, 2013 were 682 people. The majority of foreigner inmates are from Malaysia, which is 144 people, while the type of crime most often carried out by foreigners in Indonesia is narcotics crime (Ditjenpas, 2018).

This of course will harm Indonesia against narcotics offenders who come from foreign nationals even though the penalties imposed from light sentences to the toughest penalties (life imprisonment or capital punishment) then see conditions like this that require concepts of criminal sanctions against perpetrators narcotics crime, the role of local wisdom in eradicating narcotics crime is a consideration considering that before national law comes into force, of course each region has customary law imposed in a community group. because customary law formed by the community results that have been grounded and become an agreement to be applied to every member of the community, as happened in the Buton Sultanate during the reign of the Buton Sultanate which imposed a *Gogoli* sentence or a death sentence for people committing irregularities, the imposition of criminal sanctions because one of them committed a crime. However, these sanctions have not been enforced since 1960, so that the Buton Sultanate government decided to enact national law and immediately ended the reign of the Buton Sultanate.

So the author re-raised the system of imposition of customary criminal sanctions imposed in the Buton Sultanate, during the reign of the Buton Sultanate as an effort to find the concept of imposing criminal sanctions on immigrants who commit narcotics crimes as renewal of national criminal sanctions.

RESEARCH METHOD

This study uses a type of normative juridical and empirical juridical research. The normative judicial research in question is the type of research that examines and analyzes these problems based on applicable legislation. This research examines written law from various aspects, such as the aspects of theory, history, philosophy, comparison, structure, and composition aspect. The use of normative juridical research in this study aims to analyze law enforcement regarding the imposition of capital punishment sanctions caused by foreign citizens who commit narcotics crimes. The empirical

juridical research is intended to trace the data regarding the application of "Gogoli" customary criminal sanctions at the time of the reign of the Buton sultanate at the time and the factors that influence the application of the customary criminal law.

Types and sources of legal materials in conducting normative juridical and empirical juridical research, to solve legal issues and at the same time provide prescriptions about what is supposed to be necessary, it is needed as sources of legal research that can be differentiated into primary legal materials and secondary legal materials.

Primary legal material is legal material that is authoritative, meaning having authority. Primary legal materials on this research come up from legislation, official records or minutes in the making of legislation and judges' decisions. The primary legal materials used by the authors are: Republic of Indonesia law number 35 of 2009 concerning Narcotics, interviews or interviews with people who are witnesses or descendants of officials in the Buton Sultanate. Secondary Legal Materials, namely data that is closely related to primary data used to help analyze primary legal material, this secondary legal material can be done through, namely: Books, Thesis, thesis, or dissertation, Legal Journals, Opinions of the experts, scientific articles both printed and electronic. Sources of Legal Materials can be obtained by studying literature originating from various sources, namely, among others: Brawijaya Central Library, Law and Documentation Center (PDIH) Faculty of Law, Brawijaya University, Download articles that have relevance on the internet, Buton community library.

Legal Material Search Technique, in this research legal material search techniques are carried out by library research which has relevance to the laws and regulations governing the object of this study. Literature study is a study that seeks and collects relevant laws and regulations, then reads and maps and compiles these materials in a framework. In addition, legal material collection is also done with literature, papers, interviews and others.

The analysis method on this research is that legal materials obtained in this study are from literature studies and analysis of laws and regulations as well as legal materials that have other relevance and field observations then analyzed and interpreted by giving conclusions. The material analysis technique used is descriptive analysis.

FINDING AND DISCUSSION

Narcotics comes from Greek words "*narco*" which means anesthetized so that it does not feel anything the Indonesian lawmaker in 1976 has revoked the laws and regulations governing narcotics are: Verdovence Middelen Ordonnantie (Staatsblad 1927 No.278 jo. No 536), and replaced it with (Law No. 9 of 1976). Then narcotics can be equated with drugs. In the Encyclopedia Americana it can be found the notion of narcotics as a drug that dulls the senses, relieves pain, induces sleep, and can produce addiction in varying degrees while drug is interpreted as a chemical agent that is used therapeutically to treat disease. More broadly, a drug may be defined as any chemical agent affecting the living protoplasm. So narcotics is a material that blunts the feeling, relieves pain, etc (Sudarto, 2010: 36).

As a result of the use of narcotics meant by the use of narcotics is improper use, is for enjoyment that is not in accordance with normal cultural patterns. The use of narcotics for treatment to relieve pain and suffering is not included in this discussion. The multiple use of narcotics makes a person dependent on narcotics, this dependence can be mild and can be severe. The severity of this dependence is measured by the fact that to some extent he can escape from it.

A. Psychological Dependence

One result of the use of narcotics is the emergence of a "forgotten state" of the user, so that he can break away from a conflict situation. He escaped from a situation he could not overcome. However, he cannot eliminate the cause of this difficulty the problem remains an unsolved problem. The use of narcotics often widens the resilience between the person and the surrounding community, because he is increasingly unable to adjust or adjust to his surroundings, so the greater the difficulty is felt and thus the greater his sense of need for narcotics. That is what is called psychic dependence. The need is to obtain feelings of pleasure.

B. Physical Dependence

The use of narcotics for a period of time results in reduced sensitivity to the material: the material becomes accustomed to reaching the level of immunity or tolerance. For example, in the use of morphine, the dosage used must be more and more to achieve the desired effect. The end effect was not achieved even though the dose was added continuously. Conversely, if the use is stopped altogether, then there will be a catastrophe that lasts a long time and if not help by a doctor can bring death. This dependence is physical.

In obtaining direct influence from criminal penalties are people who are subject to criminal. This conviction has not been felt by convicts when the new verdict is dropped; only felt seriously if it had been implemented effectively. With the punishment here, it is desirable that the convicted person does not commit a criminal offense again if the criminal is a capital punishment for revoking independence, so as long as he / she is serving a crime it is impossible for him to do so and during that time the community is protected from his actions. But the results will be encouraging, if it is criminal - except in the case of capital punishment - convicts change their behavior and become "good people" (Sudarto, 2010: 83-84).

Before discussing the punishment of Gogoli in force in the Sultanate of Buton, it was necessary to look at the historical development of the Buton sultanate at that time. The Buton Sultanate has a long history this is based on the sources estimated to have been established since the 14th century by one of the immigrants who came from the Malay Peninsula (Zahari, 1978). Interestingly long before Indonesia became independent in 1945 the existence of Buton as a country was written by Empu Pranca (Majapahit writer) in the book *Negarakertagama* in 1364 which stated that during this period Buton had established relations with the Majapahit kingdom, In the management of the Buton Sultanate the distribution of authority balanced between two social layers. on the structure of the community, while the two layers are *Kaomu* and even though, *Kaomu* holds power at the executive level and even holds legislative power. While the layer of *Papara* is the people who are in their respective regions. In running the government, dynamics and problems often occur, namely arbitrary power and only for personal or group interests, one of the deviations committed by the sultanate is the practice of crime.

Crime is one of the problems in Indonesia, which until now has not been able to find a formulation that can overcome a crime, even though there are many laws and regulations that regulate capital punishment. but unfortunately this still does not provide a certainty that crime can be prevented or eradicated to the root, this is the obstacle, crime is clearly included in the category of extraordinary crimes and illegal crime. then doing preventive and repressive actions should be more serious in handling them, as if this proves that the prosecution has not been able to provide deterrence or deterrence effects and is no longer an *ultimum remedium* or the last drug that guarantees no crime.

Therefore, the efforts to prevent and eradicate a crime, serious attention is

needed in finding the formulation of prevention and eradication of criminal offenses, if viewed from the point of view of customary criminal law, the author will take the application of gogoli punishment as a criminal sanction imposed on the Buton Sultanate justice system against crimes committed within the Buton Sultanate government at that time, before going further, the writer will first define the penalty of gogoli, in the language of gogoli derived from the word "gogo" which means tight, tight. So that "Gogoli" in terms of means connective, wrapped around a rope tightly to lose the body's resistance at all (Zahari, 1978), "Kagogoli" means neck trapping. "Gogoli" is included in the category of death penalty or punishment by wrapping a piece of string that is specially made by a crew from two opposite directions and then drawn.

In the imposition of sanctions it has been declared violating the applicable provisions in the Buton Sultanate justice system, as opposed to religion, moral values, moral values. criminal acts are actions included in all three, in the system of imposition of criminal sanctions applicable in the Buton empire is a compilation derived from Islamic law and local customary law. it was recalled that before becoming the Buton Sultanate, it used to be a kingdom that still did not apply Islamic law since the arrival of Sheikh Abdul Wahid bin Sharif Sulaiman al-Fathani who came from Johor before going to Buton and spread Islamic teachings to finally meet the Buton kingdom which was then led by Raja Halu Oleo, briefly the story of the King entering Islam and getting the title of Sultan Murhum and becoming the first Sultan, so that from then on brought about the changing of Islamic law and the former kingdom and became the sultanate. Therefore, it is not surprising that many of the sanctions in force in the Buton Sultanate are characteristic of Islamic law which is almost as valid in Arabia as it once was. Regarding the imposition of criminal sanctions, there are various types of penalties, as below:

- a. *Karimbi* (fine)
- b. *Pekamate* (dead law)
- c. *Tatalima* (Cut Hands)
- d. *Kabebe Dara* (whip or stoning)
- e. *Buso* (seclusion)
- f. *Dodobini* (hurts her lips)
- g. *Kabatua / Kasimbatua* (slavery)
- h. *Gogoli* (neck strap)

However, the authors focus on Gogoli's punishment in imposing criminal sanctions on the Buton Sultanate system, while in the process of implementing Gogoli's punishment (Askar, 2010: 30-46) as follows:

The Process of Implementing the Gogoli Sentence in Criminal Offenses in the Buton Sultanate

In gogoli punishment sanctions, it will first explain the role of the official of the sultanate government, namely:

- 1) Central Government Official (*Pangka*)
 - a. *Oputa / Sultan*
 - Having with his heart's eye the heart of the sea is the people's conscience.
 - Become a guide and lead in the kingdom and outside the sultanate
 - Becoming the Father of the People in the Buton Sultanate

- Holding justice in the sense of improving according to or not according to custom as long as it aims for a lot of goodness.
- 2) *Sapati*
- Acting as *Aroana Sara*, that is from a legal mistake or talking without looking at the sultan though.
 - *Dalango* means a barrier or protector from the Sultan and the People
 - *Salambi* means strengthening all conclusions
 - *Bararapu* means affirming talks that have become provisions
 - Judging from the tongue balance means that it is always fair
 - Infecting two oceans, namely one's own mind, then the people.
 - All consensus must be held firmly must not be changed by adhering to the argument that it does not change the promise.
- 3) *Kenepulu*
- It is a servant found besides his main task of taking care of inheritance and stolen property. In principle, there are five cases of obligations, namely: people who are not married, property demanded by their children, assets demanded by their grandchildren, assets demanded by their great grandchildren, and stolen property.
- 4) *Kapitaraja*
- Kapitaraja had two people and each of them was Kapitaraja Matanaeyo and Kapitaraja Sukanaeyo. Kapitaraja heads the royal army called "**Kampanyia Patanguna**". Kapitaraja only knows to accept the government once in the task of securing something chaotic.
- 5) *Bonto Ogena*
- Bonto Ogena there are also two people, Bonto Ogena Matanaeyo and Ogena Sukanaeyo respectively
 - Bonto Ogena because adat is a mistress of Sapati
 - Bonto Ogena is also one of the swords of the Papara people.
 - Bonto Ogena is the inner sultan of Papara.
 - Bonto Ogena is controlling the people of Papua.
 - Bonto Ogena was also named "*Tolonivi* from Sapat" means the violation made by Sapati, Bonto Ogenalah who opposed it according to *adat* and if necessary was witnessed.
 - Bonto Ogena is responsible for the 8 articles below which are under the supervision and responsibility as follows:
 - a) *Weti* or taxes, namely offerings from the people in the form of land products.
 - b) *Bante* also comes from land offered by the people.
 - c) *Kabutu* is the result of land that is offered by the people.
 - d) *Pomua* is also the result of land offered by the people.
 - e) *Kahoti Mamata* is also the product of the land offered by the people.
 - f) *Polanggana Kampua* means the market and royal currency made of woven cotton.
 - g) *Kaloggana Papara*, namely people's assistance at a simple party held by the sultan in the form of plantation products and if a large party is accompanied by money.
 - h) *O-Aba Tee Posanga* means asking and asking permission.
- 6) *Siliombona*
- Siliombona has the following tasks:

- It has a relationship with the sultan who even becomes ten and comes from one clearly the brothers.
- Knowing the nobility of the three *komboru-mboru* streams.
- Knowing all the problems of the great sultanates (rank)
- Knowing the *Pulanga Kaumu Walaka dan Bangsawan*.
- Knowing small and big mistakes.
- Knowing the *Matalapu*.
- Knowing all the provisions of the Shari'a.
- Eligible to admonish and advise the people who violate adat.
- *Siolimbona* holds the title of ulama in Buton conditions and becomes a leader in Customs.
- *Siolimbona* was obliged to know the basics of the release and appointment of the sultanate's employees.
- *Siolimbona* must know the basics of justice and *Kadie*.
- *Siolimbona* is also called for waiting for the *Kadie* he heads.
- *Siolimbona* was obliged to know all the talks with all the sultans and other sultanate officials.
- Minister of *Peropa* and Minister *Baluwu* in particular must know the obligations of the twelve Sultans.
- The Minister of *Peropa* and Minister *Baluwu* are also referred to in the *Manggedaina* male *Wolio* custom, because of their close relationship with the sultan.
- *Siolimbona* is obliged to know the origin of the nobility from Walaka.

In the government of the Buton Sultanate there was a division of power such as the executive, legislative and even judiciary, so far before joining the Unitary State of the Republic of Indonesia the Buton Sultanate had implemented it, so that the sultan who led did not run an authoritarian government and would lead to mutual supervision between institutions and the creation of checks and balances. related to the occurrence of a problem or dispute, the Buton Sultanate has a judicial system that can be taken by anyone who resides within the Buton Sultanate, such as when a crime occurs, the one who will become a prosecutor is *Sapati* who certainly has the duty to prosecute all charges against the Sultan and by ordinary people. As for finding the case's information, it is not from Bonto (Minister) *Ogena Inuncana* and Bonto (Minister) *Kanjawari* or directly seen with his own eyes. The determination is based on four components which will be the basis in the case of functionary institutions to be handled. , namely: having the character of togetherness, not leading to religio-magical values, the punishment of the Buton sultanate is overwhelmed by the thought of a completely concrete arrangement, the sultanate's law has a visual nature.

The procedure for implementing the Gogoli sentence in the Buton Sultanate is as follows:

- Determination of the place and time of the implementation of gogoli is determined at the plenary meeting attended by all members of the council of ministers, the ranks, and the accused as well as other invitations.
- Gogoli which was dropped based on a result of a decision from a plenary meeting attended by all members of the council of ministers, pangs, and accused as well as other invitations held at *Balairung* or in the term buton called *Baruga*.
- *Kompanyia Pataanguna* (as the executor of the verdict) so that it was immediately executed in time, in accordance with what was mandated at the meeting.
- *Kompanyia Pataanguna* takes responsibility for security and order during the implementation of Gogoli.

- Sara The Sara Council will provide the tools for the purpose of carrying out the death sentence.
- The tool used by Kompanyia Pataanguna to execute is a rope made specifically of thread called Rabuta which is known in Buton language.
- If the convict wants to convey a word or two, the message can be delivered during a meeting in Baruga or in the moments of execution it turns out that the convict wants to convey something then it must go through Kompanyia Pataanguna and be followed up to the target person.
- The convict was taken to the place of execution of gogoli with sufficient escort.
- After the execution of the gogoli sentence has been carried out and resulted in the convict dead, the person who will bury him is the execution officer or prepared by the Sara Council and if the family of the convict wants to bury him then it is also permissible.

So the mechanism in the implementation of the gogoli sentencing which prevailed in the days of the heyday of the Buton Sultanate, it is necessary to know in law enforcement in the Buton Sultanate that it has become an obligation by the sultanate to equalize everyone. even though having a structural position in the Buton Sultanate must be punished as fairly as possible and in accordance with the regulations that apply to the Buton Sultanate because of this, "With regard to fair law enforcement, then do not distinguish one type of punishment because the convicted person is brave, noble, rich, powerful, acquaintance or your biological child" (Niampe, 2009: 87).

In the imposition of a gogoli sentence which is categorized as a capital punishment, the legal expert is of the opinion about the death penalty (Hamzah and Sumangelipu, 1985: 24-40). De Bussy also defended the existence of capital punishment in Indonesia by saying that in Indonesia there was a special situation. The danger to the very disturbance to the rule of law in Indonesia was greater.

Lemaire also stressed that Indonesia as a former colony that has a wide scope, with a very diverse population composition "which essentially has a situation" that is different from the Netherlands and the danger of disruption to the legal order in Indonesia is bigger and more threatening than in Netherlands. Because Indonesia is a vast country with a variety of ethnic groups where a variety of influences can cause tensions and lack of facilities and infrastructure in the police and government, there is a need for capital punishment.

Bichon van Ysselmonde said, I still believe, that the threat and punishment of capital punishment must be in every country and society regularly, both in terms of legal decisions and from the point of view that it cannot be eliminated. Both are *jure devino humano*. A criminal sword, as well as a sword, must be in the State. he cannot give up his rights and obligations, but he must defend them and implement them.

Jokers defended the death penalty on the grounds that, although there were those who objected to capital punishment which were often put forward, it was that the capital punishment was irrevocable, if it had been carried out and acknowledged, that there was an error or mistake in the judge's decision, then recovery could not be held further rights. Against the dead, the injustices experienced cannot be repaired. The most distant name is cleared of all slander and insult from all injustices. Although this method is very regrettable, it is not justified to draw conclusions that capital punishment is not acceptable.

Lombroso and Garofalo argue that capital punishment is "an absolute tool for the community to eliminate individuals that are impossible to repair". Oemar Senoadji argues that as long as our country is still self-affirming, it is still struggling with its own life which is threatened by danger, as long as the public order is confused and endangered by elements that do not recognize humanity, it still requires capital punishment. Hertawi A.M. looking at threats and implementation of capital punishment

as a Social Defense, capital punishment is social defense to avoid the general public from disasters and the danger or threat of a major danger that might occur to the community, which has or will cause misery and disrupt public order and security in the association of human life with religion and religion.

Van Veen considers criminal acts as a defense tool for enemy communities that are very dangerous and also that capital punishment can and may be used as such a tool. The indeterminate value of the prison sentence results in the importance of capital punishment.

Ing Oei T'jo Lam argues that the purpose of crime is "to repair individuals who have committed criminal acts in addition to protecting the public. so it is clear that with capital punishment, it is contrary to one of the criminal purposes ".

But there are contra in the imposition of capital punishment sanctions. Beccaria opposes capital punishment on the grounds that the process carried out in a very bad way against Jean Callas was accused of killing his own son. The judge sentenced him to death. Some later a person named Voltaire, can prove that Jean Callas is innocent, so that the name Jean Callas rehabilitated, but what's the point if he was dead, turned off due to the allowed death penalty at that time.

Ferri (1900) argues that (Andi Hamsyah and A. Sumangelipu, 1985: 38) "to safeguard people who have a predisposition to crime is enough with a life sentence, no need for capital punishment". Rolling (1933) advocates an argument that capital punishment has destructive power, that is, if the State does not respect human life and considers it appropriate to calmly eliminate one's life, then there is a high probability and respect for human life will decrease. Besides that, there is still another danger, namely that the act of killing by the State will provoke a continuation of it. Van Bemmelen believes that capital punishment reduces the authority of the government, the government recognizes its inability and weaknesses. He could no longer master the situation and did not try to find another way. And because of that there was a definite danger situation. As long as there is no situation, the problem is whether the death penalty can be accounted for as revenge or a tool to scare.

Von Henting also added that "by holding someone in prison we can hold a very valuable experiment. This is not impossible to find in capital punishment ".

Is Cassutto who is also counter to capital punishment, he argues that in capital punishment serious difficulties are encountered). First of all, we collide with the possibility of an error that cannot be repaired. And regarding Indonesia, it was added that a special situation in Indonesia was unbelievable and easily bribed against witnesses.

Although there are contradictions against the imposition of the death penalty from legal experts, the efforts to renew criminal law (penal reform) in its nature include the penal policy which is part and closely related to law enforcement policy, criminal policy, and social policy means, renewal of criminal law in essence, as explained by Arief, 2011: 3):

1. It is part of the policy of rational efforts to renew legal substances in order to incentivize law enforcement.
2. It is part of the policy (national effort) to eradicate / combat crime in the context of protecting the community.
3. It is part of policy (national effort) to overcome social and humanitarian problems in order to achieve / support national goals (ie social defense and social welfare).
4. It is an effort to review and reassess (reorientation and relevance) the main ideas, basic ideas, or socio-philosophical, socio-political, and socio-cultural

values that underlie criminal policies and policies (enforcement) criminal law if the intended value orientation of criminal law is the same as the value orientation of the old criminal law of the invaders (Old Criminal Code or WvS).

Thus, renewal of criminal law must be taken with a policy-oriented approach and at the same time a value-oriented approach.

Recommendations for conducting live legal studies / excavations (originating from religious values and traditional / customary law) which are trends in international congresses in the fields of criminal law and criminology. In various UN Congresses held every five years on "The Prevention of Crime and Treatment of Offenders" it is often stated that the criminal law system has been in several countries (especially those originating / importing from foreign law during the colonial era), generally "Obsolete and unjust" (outdated and unfair) and "outmoded and unreal" (outdated and not in accordance with reality). The reason is because the criminal law system in several countries originating / imported from foreign law during the colonial era was not rooted in cultural values and even had a discrepancy "with the aspirations of the people, and was not responsive to today's social needs. Such conditions by the United Nations Congress are stated as contributing factors to the occurrence of crime (a contributing actors to the increase of crime). In fact, it was stated that development policies (including in the field of law) which ignored moral and cultural values, among others, with the introduction of foreign laws inherited from colonial times, could be a criminogenic factor.¹

Comparison of fundamental, conceptual, critical, and constructive is one of the alternative / comparative studies that is very urgent and in accordance with the idea of national legal renewal currently is a family law study that is closer to the characteristics of the community and resources law in Indonesia. The characteristics of Indonesian society are more mono-dualistic and pluralistic; and based on various conclusions of national seminars, national legal sources are expected to be oriented towards the values of customary law and religious law. The comparative study from the angle of "traditional and religious law family" is not only a necessity, but also a necessity (Arief, 2011: 7).

CONCLUSION

In the imposition of the sentence of Gogoli as a criminal sanction applied by the Buton Sultanate at the time of its power, its application was not necessarily applied to everyone. but more on the devices of the Buton Sultanate or those who have structural positions given that they often find leaders or subordinates who carry out deviations from the values of morality that live in the community, such as narcotics crimes. considering that the person who does this is a person who is in government which should be an example for the community, so the gogoli sentence is an effective punishment. The author has a suggestion that in the imposition of criminal sanctions against people committing narcotics crimes it is very necessary punishment that has the effect of deterrent effects on the perpetrator, so that the act is not repeated and gives fear to people who want to commit narcotics crimes. and in its implementation not only limited to the environment of the Buton Sultanate but also nationally applied, given the crime of crime has become a problem faced by the state of Indonesia which until now has not been resolved and increasingly becoming exacerbating the state conditions today,

¹ Data from the UN VI Congress report, among others, stated, Often, lack consistency between laws and reality was criminogenic; the father the laws was removed from the feeling and the values shared by the community, the greater was the lack of confidence and trust in the efficacy the legal system).

the government is precisely looking for imposition of criminal sanctions based on local wisdom.

BIBLIOGRAPHY

- Askar, S.A. (2010). *Gogoli, Tinjauan Hukum Pidana Sistem Kekuasaan Kesultanan Buton*, Skripsi, Baubau.
- Achadiyah, I. (2001). *Katalog Naskah Buton Koleksi A.M.Zahari*. Jakarta: Yayasan Obor Indonesia.
- Hamsyah, A.& Sumangelipu, A. (1985). *Pidana Mati di Indonesia*. Jakarta: Ghalia Indonesia.
- Kari, B. (1993). *Hukuman Gogoli Dimasa Kesultanan Buton*, Skripsi, Buton.
- Nawawi Arief, B. (2011). *Pembabaruan Hukum Pidana Dalam Perspektif Kajian Perbandingan*. Bandung: Citra Aditya Bakti.
- Niampe, L. (2009). *Undang-Undang Buton Versi Muhammad Idrus Kaimuddin*, FKIP UNHALU.
- Sudarto. (2010). *Kapita Selekta Hukum Pidana*. Bandung: Alumni.
- Syamsuddin, A. (2014). *Tindak Pidana Kbusus*. Jakarta: Sinar Grafika.
- Zahari, A.M. (1978). *Sejarah dan Adat Fiy Butuuni*. Jakarta: Departemen Pendidikan dan Kebudayaan.
- Zahari, A. M. (1984). *Masalah Hukum Perdata Adat Wolio Buton*. Jakarta: Depdikbud.
- Zuhdi, S. (1997). *Kerajaan-Kerajaan Tradisional di Sulawesi Tenggara; Kesultanan Buton*. Jakarta: Depdikbud.

Internet

http://smslap.ditjenpas.go.id/public/custom_r/current/method/monthly/idmr/766f6dc0-205e-105e-a298-303930323539. Diakses 22 April 2018.

