

The Schapelle Corby and Bali 9 Cases vs Mandagi et al. Comparison of Legal System

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Today's criminal justice has become more complex, sentencing and parole in today's reality is also influenced by the interaction between the police, courts of law, the community, and there are some influence of media and politics as well particularly in deciding for reducing sentence and parole .

Schapelle Corby Case and the Bali Nine cases are in the top of the list for the Australian Government, these cases attracted much attention to both Australian and Indonesian Government. Political Party, and top level of Government Officials had stated their stands on their sentences. Media Coverage had also played a significant role in shaping public perception.

However, we can make comparison to the cases of Mandagi et al, which was convicted for drug trafficking by an Australian court. Unlike the Bali Nine and Corby's case, Mandagi et. al must serve their time fully in prison without remission/reduction of sentences and there is no feasible avenue for pardon or early release. Moreover, they are placed in separate maximum prison in remote area. Eventough their cases have been raised at many occasions, they can't be co-located and serve their time together until today. This remains as a sad fact for these Indonesians.

Schapelle Corby Case

Corby, 27, in 2004 was arrested at Denpasar airport with 4.1 kg of marijuana in her body board bag. In 2005, she was sentenced to 20 years of imprisonment. A year after, Corby won appeal at the high court, her sentenced reduced 5 years although it was later overturned. In 2008, appeal the Supreme Court the court rejected her appeal. Corby bid for clemency, Indonesian president approved and her sentences was sentenced was cut to 10 years in 2012, her non parole sentence is expected to be finished in 2015, and she will be in Bali until her parole

In the Case of Corby, it is important to note that she has been granted 8 (eight) times remission with a total of 27,5 months, and her clemency was approved and her sentenced was slashed to 10 years . Corby is today waiting to be release, and serve her parole time in Bali.

The Bali Nine Case

The **Bali Nine** is the name given to a group of nine Australian citizens arrested on 17 April 2005, in Denpasar on the island of Bali, Indonesia, in a plan to smuggle 8.3 kg (18 lb) of heroin valued at approximately AUD 4 million from Indonesia to Australia. Andrew Chan, Si Yi Chen, Michael Czugaj, Renae Lawrence, Tach Duc Thanh Nguyen, Matthew Norman, Scott Rush, Martin Stephens and Myuran Sukumaran, all aged between 18 and 28 at the time of their arrests.

Under regulation No. 22/1997 on Narcotics, 6 (six) member of the bali nine was initially sentenced to death. After making an appeal in the high court and supreme court, 2 (two) member were sentenced to death (Mr.Chan and Sukumaran), they are now bidding for Clemency, and 6 (six) members have received reduction of sentence to life imprisonment, four of whom are are now applying for special

remission/reduction of sentence, and 1 (one) female member of the Bali Nine, Renae Lawrence sentenced has been reduced 20 years of imprisonment.

The last Australian who was executed overseas was Van Tuong Nguyen in Singapore, 2005, in the same year the Bali Nine was arrested. They are now the only two Australian facing death penalty in the world, which put them in the top of the list to the Australian Government.

Statistics about drug related offences in Indonesia

In the last five years, statistics have shown a 34.4% increase in drug-related cases each year. An estimated **fifteen thousand people in Indonesia die from drugs per annum**. The Indonesian government is very committed to its war against the illegal use and sale of narcotics in the country. Within Southeast Asia, Indonesia is not the only country that imposes capital punishment for major drug trafficking offence.

However, Indonesian legal system provides a convicted person with several legal avenues and some of this legal avenues can never be exhausted. In summary, a person may apply for an appeal to the High Court and following judgement from the High Court, the same person may apply for an appeal to the Supreme Court. If new evidence arises in the future, the person may apply for a review of the case by the Supreme Court.

Furthermore, a convict may also receive remission/ reduction of sentence that is given in the occasion of the Independence Day and religious holidays, subject to certain legal requirements.

Mandagi et.al case, New South Wales

On 14 August 1998, a cargo vessel "Uniana" was caught trafficking of heroin, which was worth A\$ 600 million. The ship was captured by HMAS Bendigo on the offshore of Grants Beach, NSW. Australian Authorities detained Mr. Kristio J. Mandagi (maritime pilot), Mr. Saud Siregar (chief officer), and Ismunandar (chief of engineer) who was recruited by a shipping company agency in Singapore. The three gentlemen were deemed as the leaders of the ship and responsible for the trafficking of the heroin. Australian authorities had also detained the owner of the ship from Hong Kong and his accomplices.

The Australian court had sentenced imprisonment as follow: Mr. Mandagi (25 years), Saud Siregar and Ismunandar (20 years each). The term of imprisonment was commenced from the day these persons were detained. On 11 March 2002, an appeal was granted for Mr. Mandagi, who received reduction from 25 years to 19 years while the appeal for Mr. Siregar and Ismunandar was denied.

It has been 15 years now they are detained in Australia. They are now located different maximum correctional center, in remote areas Mr. Mandagi is Bathurst Correctional center, Ms. Ismunandar in South Coast Correctional and Mr. Siregar had serious mental illness, serving his time in Long Bay Correctional Center. Its very difficult even to just to co-locate prisoners, unlike the Australian who enjoy privileged of being placed in the same location, with easy access, and relatively more flexible visit time.

What can we learn from Mandagi et.al Case ?

- There is no remission or reduction of sentence in the law system
- There is no avenue for royal prerogative of mercy

They must serve their time fully in prison.

How Politics Play ?

A comparison to another case would reveal that Mandagi et. Al receive an unfair treatment. There is a case that involved members of a North Korean ship which had trafficked 125 kg of Heroin in 2006, in the southeast of Victoria and they were all released from the prison although the captain and the crews were sentenced to 20 -23 years. Government of North Korea seem to successfully pressure the Australian government, consequently all the members of the crew was released.

In conclusion, a brief comparison to the similar cases in both legal system would reveal that the legal avenues provided under the Australian legal system is not benefitting the convicts as much as they are under the Indonesian legal system.
