

Reformulation of the Existence of the Death Penalty Based on the 2023 Criminal Code

Abraham Hadongan Manurung¹; Bambang Waluyo².

Faculty of Law, National Development University "Veteran" Jakarta, Indonesia.

Jl. R.S. Fatmawati Raya, Pondok Labu, Cilandak, Jakarta Selatan 12450

E-mail: 2210611371@mahasiswa.upnvj.ac.id, bambangwaluyo@upnvj.ac.id

Manuscripts received : 27/10/2025, Revision and Review : 30/11/2025, Approved 23/12/2025

Abstract

The death penalty reform in Indonesia's Criminal Code (KUHP) 2023 marks a transition from a repressive penal system to a more humanistic approach. Under the previous code, capital punishment was a principal and final sentence, whereas the 2023 KUHP redefines it as an alternative punishment with a ten-year probation period. This study aims to assess the effectiveness of this reform and the need for a new implementing law. Using a normative juridical method with statutory and comparative approaches, data were collected through literature research and analyzed qualitatively. The findings show that the implementation of the death penalty still relies on Law No. 2 of 1964, which no longer reflects the humanitarian spirit of the new KUHP. Therefore, a new implementing law is needed, as mandated by Article 102 of the KUHP, to regulate lethal injection, establish a Medical Execution Unit, and provide ethical guidelines for doctors to ensure executions are conducted professionally and in line with human rights principles.

Keywords: Death Penalty, Criminal Law Reform, Lethal Injection, Human Rights.

A. Introduction

The death penalty is a form of punishment that has long been a global debate because it relates to the most fundamental aspect of human rights, namely the right to life. In Indonesia, the right to life is expressly guaranteed in Article 28A of the 1945 Constitution of the Republic of Indonesia which reads "Everyone has the right to live and has the right to defend his life and livelihood", and is reaffirmed in Law Number 39 of 1999 concerning Human Rights which says "the right to life is a right that cannot be reduced under any circumstances".¹ However, in Indonesia, the criminal law system still maintains the existence of the death penalty in laws and regulations, both as a basic crime and as a

¹Lon, Yohanes S. "The Application of the Death Penalty in Indonesia and Its Pedagogical Implications." Kertha Wicaksana 14, no. 1 (2020): 47-55.



criminal threat in a number of serious crimes such as terrorism, narcotics, and premeditated murder.

The death penalty has emerged since the enactment of the Dutch *Wetboek van Strafrecht* (WvS) which was later adopted into Law Number 1 of 1946 concerning Criminal Law Regulations or commonly known as the Criminal Code (KUHP) in Indonesia since the colonial period. The old Criminal Code was compiled into three main books, namely the First Book on General Rules, the Second Book on Crime, and the Third Book on Violations. In the old Criminal Code, the death penalty was a final and binding principal penalty after being imposed by a court decision with permanent legal force. The only legal mechanism that can save death row inmates is a clemency request to the President. If clemency is rejected, then the execution of the death penalty will be carried out. The procedure for carrying out the death penalty is regulated in Law Number 2 of the Presidential Decree of 1964, which stipulates that execution is carried out by firing squads. However, the implementation can only be carried out if all legal channels have been taken and have not yielded results, including appeals, cassation, review (PK), and clemency.

Advocacy institutions such as *the Institute for Criminal Justice Reform* (ICJR) actively criticize the practice of the death penalty as inconsistent with modern legal principles that prioritize the protection of human rights. The ICJR said that the criminal justice process in Indonesia still has various weaknesses, such as the lack of access to legal aid, the potential for torture during the investigation process, and sentences that are often influenced by public opinion or political pressure.²

The ICJR also highlighted the phenomenon of an ever-increasing execution waiting series. Based on the ICJR report, by the end of 2024 there are 562 death row inmates still awaiting execution, with 116 of them having waited more than 10 years. The majority came from narcotics cases as many as 380 people, followed by murder cases of 141 people, and the rest from other criminal acts.³ Komnas HAM also said that this number increased to 579 death row inmates as of June 2025.⁴ The ICJR considers that this condition causes legal uncertainty and inhumane treatment, because convicts live in the shadow of execution without certainty of time. This phenomenon shows that the death penalty in Indonesia is not only a matter of verdicts, but also a matter of protracted implementation so that it has the potential to violate human rights principles. This criticism of the ICJR became even more relevant when the government and the House of Representatives formulated a new Criminal Code, which tried to shift the death penalty from its absolute nature to an alternative to a 10-year probation period.

²Ramadhan, Choky Risda, F. Afandi, K. Materay, S. Dirga, N. Ansar, and E. A. T. Napitupulu. "Opportunities for the Application of Plea Bargain in Indonesian Criminal Procedure Law." (2024).

³Kompas.com, "ICJR Report: 2024 Death Penalty Cases Increase, 562 Waiting to Be Executed": <https://nasional.kompas.com/read/2025/06/19/11013781/laporan-icjr-kasus-pidana-mati-2024-meningkat-562-tunggu-dieksekusi> (accessed on September 8, 2025, at 13:31)

⁴National Commission on Human Rights (Komnas HAM), "High Death Penalty Waiting Series, Komnas HAM Reviews Draft Government Regulation": <https://www.komnasham.go.id/deret-tunggu-hukuman-mati-tinggi-komnas-ham-kaji-rancangan-peraturan-pemerintah> (accessed on September 8, 2025, at 13:37)



In response to these problems, in 2022 the House of Representatives of the Republic of Indonesia passed Law Number 1 of 2023 concerning the Criminal Code (new Criminal Code) which is planned to take effect from January 2026. The new Criminal Code consists of only two books, namely the First Book on General Provisions and the Second Book on Criminal Offences. In Article 100 of the new Criminal Code, the death penalty is no longer positioned as an absolute principal crime, but as an alternative penalty that can be imposed with a probation period of ten years.⁵ This reformulation is an important shift from a purely repressive approach to a more humanistic and corrective approach.

This is a form of progress in the penal system because it provides space for the evaluation of the death penalty, as well as paving the way to the possibility of abolishing the death penalty in the future.⁶ However, the ICJR is of the opinion that this new regulation has not touched on fundamental issues in the practice of criminal law in Indonesia.⁷ Issues such as transparency, accountability in granting clemency, and potential inequality in its implementation are still in the spotlight. The ICJR said that the provisions regarding probation are not explained in detail in procedural aspects and evaluation criteria, which can lead to different interpretations and legal uncertainty.⁸

Previous studies have discussed the implementation and policy of the death penalty in Indonesia from various perspectives. Research by Lon (2020) highlights the controversy over the application of the death penalty in terms of ethics and morality of criminal law. The results of his research show that the death penalty is considered not in line with human rights principles and poses a dilemma between retributive justice and humanist justice.⁹ Meanwhile, Anugrah (2021) examines efforts to update the death penalty policy with a probationary approach, but its implementation still raises pros and cons both normatively and practically.¹⁰

In contrast to previous studies that focused on moral aspects, legal certainty, or the effectiveness of the death penalty, this study focuses on the reformulation of the existence of the death penalty in the 2023 Criminal Code. The main focus of this study is to analyze the shift in the position of the death penalty from the main crime to an alternative criminal with a probationary period of ten years, as well as to examine the need for the formation of a new implementing law to replace the Presidential Decree Number 2 of 1964 which is no longer relevant. Thus, this research seeks to contribute to the reform of Indonesian

⁵Bambang Waluyo, *Criminal Law and Criminal Justice* (Jakarta: LPPM Press UPN Veteran Jakarta, 2023), 92.

⁶Anugrah, Roby, and Raja Desril. "The policy of the formulation of the death penalty in the reform of Indonesian criminal law." *Journal of Indonesian Legal Development* 3, no. 1 (2021): 80-95.

⁷Institute for Criminal Justice Reform (ICJR), *Working Paper: Recommendations for Criminal Policy Reform Directions 2019-2024* (Jakarta: Institute for Criminal Justice Reform, 2019), accessed on May 9, 2025, at 14:20; <https://icjr.or.id/kertas-kerja-rekomendasi-arah-reformasi-kebijakan-pidana-2019-2024>

⁸"ICJR Criticizes the Articles on the Probation Period of Death Row of the RKUHP, the Phenomenon of Waiting Queues Emerges," *Merdeka.com*, accessed on May 9, 2025, at 15:27, <https://www.merdeka.com/periwiwa/icjr-critik-pasal-masa-percobaan-terpidana-mati-rkuhp-muncul-fenomena-deret-tunggu>

⁹Lon, Yohanes S. "The Application of the Death Penalty in Indonesia and Its Pedagogical Implications." *Kertha Wicaksana* 14, no. 1 (2020): 47-55.

¹⁰Anugrah, Roby, and Raja Desril. "The policy of the formulation of the death penalty in the reform of Indonesian criminal law." *Journal of Indonesian Legal Development* 3, no. 1 (2021): 80-95.



criminal law by emphasizing the need for a more humane execution of the death penalty, transparency, and in line with human rights principles.

Based on the above explanation and data, the fundamental differences between the old Criminal Code and the new Criminal Code raise various important questions in the context of comparative penal systems in Indonesia. On the one hand, the old Criminal Code emphasizes more on the repressive nature of the death penalty, while the new Criminal Code seeks to introduce restorative and humanitarian sides, so in-depth research is needed on the comparison between the old Criminal Code and the new Criminal Code in terms of the death penalty regulation. This is important to understand the extent to which these changes reflect the progress of human rights protection in national criminal law, as well as how effective the application of the death penalty as an alternative crime in the transformation of the penal system in Indonesia.

Therefore, this study will discuss how the influence of the death penalty as a main crime as an alternative crime in the new Criminal Code on the effectiveness of criminal justice in Indonesia and discuss how to update the death penalty regulation in Indonesia.

B. Research Methods

This research uses a normative juridical method by examining various written legal provisions, including laws and regulations, international agreements, and other regulations relevant to the implementation of the death penalty in Indonesia.¹¹ The approach used includes a statutory approach, namely by analyzing and examining all laws and regulations, agreements, and regulations related to the death penalty in Indonesia, as well as a comparative approach comparing the regulatory system for the application of the death penalty in Indonesia based on the old Criminal Code with Law Number 1 of 2023 concerning the Criminal Code. The primary source of legal material includes all laws and regulations related to death penalty events, clemency, and human rights, such as Law Number 1 of 2023 concerning the Criminal Code, Law Number 1 of 1946 concerning Criminal Law Regulations, Law Number 5 of 2010 concerning Amendments to Law Number 22 of 2002 concerning Clemency, and the Constitution of the Republic of Indonesia in 1945. Secondary legal materials are obtained from reference books, scientific articles, legal journals, and other literature related to the topic of discussion, while tertiary legal materials are sourced from websites and other online sources that provide access to various legal sources and supporting information relevant to this research. The data collection technique is carried out through library *research* by tracing and analyzing various primary, secondary, and tertiary legal sources that have relevance to the legal issues being studied. Furthermore, data analysis is carried out qualitatively with an emphasis on descriptive and interpretive studies to obtain a comprehensive understanding of the legal problems that are the object of the research.

¹¹Armia, Muhammad Siddiq. "Determining the Method of Legal Research Approach." (2022).



C. Results and Discussion

a. The Influence of the Death Penalty as a Basic Crime as an Alternative Crime in the New Criminal Code on the Effectiveness of Criminal Justice in Indonesia

The application of the death penalty in the Indonesian criminal law system is a complex and controversial topic, given the guarantee of the right to life in Article 28A of the 1945 Constitution.¹² However, Indonesia still maintains the death penalty as part of the criminal law system for certain crimes that are considered very serious, such as terrorism, narcotics, and premeditated murder. Therefore, the role of the government in overseeing the implementation of the death penalty is very important to ensure that the process is carried out in a fair, transparent, and in accordance with human rights principles.

The Indonesian government, through related institutions such as the Attorney General's Office, the Supreme Court, and the President, has a great responsibility in overseeing the implementation of the death penalty. This escort process begins from the judicial stage, where the judge imposes the death penalty after considering the existing evidence and facts. After the verdict is handed down, the convict has the right to file legal remedies such as appeal, cassation, and review (PK). If all these legal remedies have been taken and have not yielded results, then the convict can apply for clemency to the President.

Clemency is the prerogative of the President that can be used to reduce or cancel the death penalty that has been imposed by the court.¹³ After the clemency application is submitted, the President will consider various aspects, including the considerations of the Supreme Court, before deciding whether to grant clemency or not. If clemency is rejected, then the execution of the death penalty can be carried out by the Attorney General's Office. This execution procedure is regulated in Law Number 2 of the Presidential Decree of 1964 concerning Procedures for the Implementation of the Death Penalty and clarified by the Regulation of the National Police Chief Number 12 of 2010 concerning Procedures for the Implementation of the Death Penalty.

Although the new Criminal Code has updated the philosophy and penal system by making the death penalty an alternative penalty with a 10-year probation period as stipulated in Article 100, until now there have been no new implementing regulations. The new Criminal Code does provide a mandate through Article 102 that provisions regarding the implementation of the death penalty are further regulated in a separate law, but the regulation has not yet been formed.

In this condition, Law Number 2 of the Presidential Decree of 1964 is still used as a positive legal guideline that applies. This is based on the principle of *lex*

¹²Kurniawan, Mochamad Reza, and Fendi Setyawan. "The Principle of Legal Certainty Towards the Implementation of the Death Penalty in the Perspective of Human Rights in the Criminal Justice System in Indonesia." *KUNKUN: Journal of Multidisciplinary Research* 2, no. 1 (2025): 55-63.

¹³Mene, Meydianto. "The Right of Clemency of the President in the Constitutional System of the Republic of Indonesia." *Encyclopedia of Journal* (2022).

continuitatis, which is the principle of legal sustainability which affirms that an old regulation remains valid as long as it has not been revoked or replaced and does not conflict with the new regulation.¹⁴ Because the 2023 Criminal Code does not explicitly repeal these provisions and there is no implementing law to replace it, formally the old regulation still has legal validity. However, based on the Constitutional Court Decision Number 2-3/PUU-V/2007, the Court emphasized that although the death penalty does not contradict the 1945 Constitution, its implementation must be regulated in more detail through a separate law to be in accordance with the principles of *due process of law* and human values. Thus, the enactment of the regulations on the implementation of the death penalty that is currently still in force is only temporary (*transitory provision*) until the establishment of the Law on the Implementation of the Death Penalty which becomes *lex specialis* and will explicitly revoke and replace the old regulation. This attitude is in line with the principle of national criminal law reform which not only maintains the sustainability of norms, but also demands the conformity of substance with the human rights orientation carried out by the 2023 Criminal Code.

In addition, the enactment of Law Number 2 of the Presidential Decree of 1964 is also strengthened by the principle of *lex specialis derogat legi generali*, where the law specifically regulates the procedures for the execution of the death penalty, while the Criminal Code only regulates substantial aspects regarding the types and conditions of the imposition of the death penalty. Thus, the provisions in Law Number 2 of the Presidential Decree of 1964 do not contradict the new Criminal Code, but rather function as a technical-operational complement.

Article 99 paragraph (3) of the 2023 Criminal Code also shows this form of continuity, by stating that "the death penalty is carried out by firing squads or in any other way specified in the law". The phrase "law" in this article can be systematically interpreted as referring to Law Number 2 of the Presidential Decree of 1964, because only that law currently regulates the procedures for the execution of the death penalty in Indonesia. This view is in line with the legal practice still carried out by the Attorney General's Office and the police, which is guided by Presidential Decree No. 2 of 1964 and the Regulation of the National Police Chief No. 12 of 2010 until the existence of a new implementing law.

Thus, in the context of the implementation of the death penalty, the new Criminal Code has not completely replaced the old legal basis, but still depends on existing implementing regulations. This illustrates that the reformulation of the death penalty in the 2023 Criminal Code is still in the normative transition stage, where policy updates have not been fully followed by updates to the implementation technical regulations. Therefore, the establishment of a law on the implementation of the death penalty as mandated by Article 102 of the Criminal Code is important so that the Indonesian criminal law system has harmony between substantial and procedural norms, while

¹⁴ Jimly Asshiddiqie, *Regarding the Law* (Jakarta: Constitution Press, 2006), 224-225.



ensuring a more humane, transparent, and accountable implementation.

Although the enactment of Law Number 2 of the Presidential Decree of 1964 is still juridically valid, this condition creates a number of legal loopholes in the practice of carrying out the death penalty. One of the main loopholes is that Law Number 2 of the Presidential Decree of 1964 has a substance and orientation that is still thick with a repressive legal paradigm. This law only regulates the technical aspects of implementation such as the use of firing squads, the presence of doctors and clergy, and reporting procedures without considering the principles of human rights and legal certainty which are the main spirit of the new Criminal Code. As a result, there is a normative inconsistency between the humanistic approach of the new Criminal Code and the execution mechanism that is still oriented towards the old criminal law.

The next gap relates to the slow execution process which ideally after the death penalty is handed down and all legal remedies have been taken, the execution is carried out immediately. However, the reality is that many death row inmates have to wait for years before execution. This waiting list phenomenon causes legal uncertainty and psychological suffering for convicts and families. The causes of the slow implementation of the execution can be traced to the complexity of administration, protracted clemency requests, and weak coordination between related institutions. This condition eventually forms a negative perception that the death penalty in Indonesia is just a formality that is not carried out firmly and on time.

The lack of external supervision is also a significant weakness. The judicial process and execution of the death penalty should be supervised by independent institutions to ensure that the rights of convicts are respected and to prevent abuse of authority. However, the available monitoring mechanisms are still very limited. This limitation opens up space for human rights violations, such as torture during investigations or execution that is not in accordance with procedures. The lack of an effective grievance mechanism for convicts and their families further exacerbates the situation, as reports of alleged human rights violations are difficult to obtain adequate follow-up.

Thus, although the enactment of Law No. 2 of the Presidential Decree of 1964 can be judicially accounted for, the law is substantially irrelevant to the direction of modern criminal law reform. The reformulation of the death penalty in the new Criminal Code will be effective if followed by the formation of a new implementing law that conforms to the principles of human rights, transparency, and legal certainty that become the image of national law.

b. Death Penalty Reform in Indonesia

Globally, the death penalty has become the most debated legal and moral issue in the modern criminal justice system. Most countries in the world have reformed the penal system by placing the right to life as an absolute human right that cannot be reduced under any circumstances. Based on the Amnesty International report in 2024, it is recorded that more than two-thirds of countries in the world have abolished the

death penalty both in law and in practice.¹⁵ The abolition is based on the awareness that the state should not take away the right to life of its citizens, as stipulated in *the Universal Declaration of Human Rights* (UDHR) 1948 Article 3 which states "*Everyone has the right to life, liberty and security of person*", as well as *the International Covenant on Civil and Political Rights* (ICCPR) 1966 Article 6 paragraph (1) which states that "the right to life is a right inherent in every human being and cannot be arbitrarily revoked"

European countries such as France, Germany, and Norway have pioneered the abolition of the death penalty on moral and humanitarian grounds, while some Asian countries such as Japan, China, and Singapore still maintain it on a limited basis for *extraordinary crimes*. Practice in these countries shows that although the death penalty has not been completely abolished, its implementation is carried out in a careful, transparent manner, and with respect for human dignity. This view is an important reference for Indonesia in reorganizing the death penalty policy to be more in line with human rights principles. As explained in the previous discussion, the reformulation of the death penalty in the new Criminal Code is the first step towards a more humanistic penal system. However, these changes are only conceptual and have not touched the implementation aspect. The implementation of the death penalty in Indonesia is still based on Law Number 2 of the Presidential Decree of 1964 which stipulates the method of execution through firing squads. In fact, this method is no longer in accordance with the spirit of humanity carried out by the new Criminal Code. Therefore, a comprehensive reform of the procedures for the execution of the death penalty is needed to be in accordance with human rights values and the development of modern law.

The update needs to be directed not only at changing the method of execution, but also at the establishment of a new legal framework that guarantees transparency, accountability, and legal certainty. The government needs to immediately follow up on the mandate of Article 102 of the Criminal Code by forming a new implementing law that regulates the procedures for carrying out the death penalty in a more humane manner. Through this regulation, Indonesia can show a real commitment to the reform of the national criminal law system.

Within the scope of national criminal law reform, discussions on the death penalty also need to pay attention to the method of implementation so that it is in line with the spirit of humanity carried out by the new Criminal Code. Until now, the procedure for the execution of the death penalty in Indonesia is still regulated in Law Number 2 of the Presidential Decree of 1964, which stipulates that the execution is carried out by shooting to death by firing squads. This method is no longer relevant to the development of modern law and is considered no longer reflective of human values, because its implementation often causes physical and psychological suffering for

¹⁵ Amnesty International, *Death Sentences and Executions 2025* (London: Amnesty International, 2025), accessed 14 October 2025, <https://www.amnesty.org/en/documents/act50/8976/2025/en/>



convicts.¹⁶ Therefore, within the framework of criminal law reform, it is necessary to consider updating the method of carrying out the death penalty to the *lethal injection method* as it has been applied in a number of countries such as the United States, China, and Guatemala.

The death injection method is seen as faster, more efficient, and less painful if done in accordance with proper medical procedures. This procedure uses a combination of certain medications that cause loss of consciousness, muscle paralysis, and gradual cessation of heart function so that death occurs without excessive pain. From a humanitarian perspective, this method is in line with the spirit of the new Criminal Code which emphasizes respect for human dignity even when punishment is carried out. However, the application of this method poses an ethical dilemma because it requires the involvement of doctors as the main implementer of injections. A doctor's oath that obliges to protect life is often considered to be contrary to the act that ends a person's life.

In the execution of the death penalty as a state law order, the involvement of doctors can be seen as a form of professional responsibility to ensure that executions are carried out humanely, safely, and in accordance with medical procedures. Thus, doctors do not act as perpetrators who violate their professional oaths, but as medical supervisors who ensure that the execution process runs without technical errors and without unnecessary suffering. To avoid ethical and legal conflicts, the state needs to establish a special medical execution team under the coordination of the Attorney General's Office and the Ministry of Health consisting of doctors who are consciously willing and have received special training to perform the lethal injection procedure. In addition, the government also needs to prepare a legal framework that provides ethical and legal protection for the doctors involved, by stipulating that such actions are carried out solely to implement a legitimate court decision, not of personal will.

In order to provide comprehensive protection for doctors who are actively involved in the implementation of the death penalty by the death penalty method, it is necessary to establish a legal framework as part of the draft Law on the Implementation of the Death Penalty. This draft contains provisions regarding the principles, objectives, institutions, implementation procedures, as well as supervision and accountability of the death penalty. Juridically, the actions of doctors in the execution can be justified based on Article 32 of the new Criminal Code which states that a person cannot be convicted if the act is carried out to carry out the order of office from an authorized official, and strengthened by Article 44 of the new Criminal Code which provides protection for the executor of the order in good faith. However, juridical protection alone is not enough because the potential violation of the doctor's professional oath is still a fundamental issue. Therefore, the draft law needs to regulate the establishment

¹⁶ Devi, Rosa Pijar Cahya, and Yanhizbar Rotanza. "The Effectiveness of the Death Penalty Threat for Perpetrators of Corruption Crimes in Indonesia from the Perspective of Law, Human Rights, and Psychology." Kertha Wisdom 17, no. 2 (2023): 147-155.



of a Medical Execution Unit (UEM) under the coordination of the Attorney General's Office and the Ministry of Health which functions to recruit doctors voluntarily, provide special training and certification, and prepare Standard Operating Procedures (SOP) that ensure the implementation of lethal injection in accordance with medical principles and humanitarian principles.

In addition, this draft also mandates that the Indonesian Medical Council (KKI) issue special ethical guidelines that provide limited disciplinary exemptions for doctors who act in accordance with legal protocols and on the basis of lawful orders, along with the right of *conscientious objection* for doctors who refuse to participate on the basis of moral or religious beliefs. Independent oversight mechanisms from human rights institutions are also explicitly regulated, including post-execution recording and audit obligations to ensure accountability and transparency. This new law also revokes the enactment of Law Number 2 of the 1964 Presidential Decree, which has been the basis for the implementation of the death penalty, because it is no longer in substance in line with the humanitarian orientation of the 2023 Criminal Code. With this arrangement, the draft Law on the Implementation of the Death Penalty not only provides a legal basis and ethical protection for medical personnel, but also ensures that the implementation of the death penalty runs humanely, professionally, and in line with the values of justice and humanity which is the spirit of Indonesian criminal law reform.

With this update, the implementation of the death penalty in Indonesia can be directed to be more humane, professional, and accountable, in line with the goal of the reformulation of the new Criminal Code that seeks to balance legal certainty, justice, and humanity. Through the involvement of doctors as executioners, the state not only ensures that the execution process runs safely and with dignity, but also demonstrates a commitment to progressive criminal law reform and respect for human rights values.

D. Conclusions and Recommendations

Based on the results of the research, it can be concluded that the reformulation of the death penalty in the 2023 Criminal Code reflects a shift in the paradigm of Indonesian criminal law from a retributive approach to a more humanistic and corrective approach. The death penalty is no longer placed as an absolute main crime, but as an alternative penalty with a probation period of ten years. This policy shows the state's commitment to balancing legal certainty, justice, and humanity in the national penal system.

However, the implementation of the reformulation still faces obstacles because there is no new implementing regulation that replaces Law Number 2 of the Presidential Decree of 1964 concerning Procedures for the Implementation of the Death Penalty. The law is no longer relevant to the spirit of the new Criminal Code, because it is still based on a repressive legal paradigm and regulates executions by shooting by firing squads, a method that is no longer in line with the principle of respect for human dignity. While the new Criminal Code emphasizes human values and provides space for evaluation of death row inmates, the implementation through firing squads actually causes physical suffering that

is contrary to this spirit.

Therefore, the government needs to immediately form a new implementing law as mandated in Article 102 of the 2023 Criminal Code which regulates the method of execution of the death penalty in a more humane manner. One of the relevant forms of reform is the application of the lethal injection method as a substitute for firing squads. This method is considered more in accordance with human rights principles because it minimizes pain and maintains the dignity of the convict.

To ensure the implementation of these methods, it is also necessary to establish a clear legal and ethical framework for doctors involved in the implementation of lethal injections. The state needs to establish a Medical Execution Unit (UEM) under the coordination of the Attorney General's Office and the Ministry of Health, as well as establish special SOPs and ethical guidelines through the Indonesian Medical Council to provide legal, ethical, and professional protection for performing doctors. With this step, the implementation of the death penalty in Indonesia can run humanely, professionally, and accountably, in line with the goals of the 2023 Criminal Code reformulation which seeks to uphold justice while upholding human values in the reform of the national criminal law.

References

A. Laws and Regulations

Indonesia. Constitution of the Republic of Indonesia in 1945.

Indonesia. Law No. 1 of 1946 concerning Criminal Law Regulations (Statute Book No. 9/1946).

Indonesia. Law No. 1 of 2023 concerning the Criminal Code (Statute Book No. 1/2023).

Indonesia. Law No. 5 of 2010 concerning Amendments to Law No. 22 of 2002 concerning Clemency (Statute Book No. 100/2010).

Indonesia. Presidential Decree No. 2 of 1964 concerning Procedures for the Execution of the Death Penalty Imposed by Courts in the General and Military Courts (Statute Book No. 38/1964).

Indonesia. Constitutional Court Decision No. 2-3/PUU-V/2007.

B. Journal

Anugrah, Roby, and Raja Desril. "The policy of the formulation of the death penalty in the reform of Indonesian criminal law." *Journal of Indonesian Legal Development* 3, no. 1 (2021): 80-95.

Devi, Rosa Pijar Cahya, and Yanhizbar Rotanza. "The Effectiveness of the Death Penalty Threat for Perpetrators of Corruption Crimes in Indonesia from the Perspective of Law, Human Rights, and Psychology." *Kertha Wisdom* 17, no. 2 (2023): 147-155.

Kurniawan, Mochamad Reza, and Fendi Setyawan. "The Principle of Legal Certainty Towards the Implementation of the Death Penalty in the Perspective of Human Rights in the Criminal Justice System in Indonesia." *KUNKUN: Journal of Multidisciplinary Research* 2, no. 1 (2025): 55-63.

Lon, Yohanes S. "The Application of the Death Penalty in Indonesia and Its Pedagogical Implications." *Kertha Wicaksana* 14, no. 1 (2020): 47-55.

Mene, Meydianto. "The Right of Clemency of the President in the Constitutional System of the Republic of Indonesia." *Encyclopedia of Journal* (2022).

C. Books

Armia, Muhammad Siddiq. "Determining the Method of Legal Research Approach." (2022).

Asshiddiqie, Jimly. *About the Law*. Jakarta: Constitution Press, 2006.

Bambang Waluyo, *Criminal Law and Criminal Justice* (Jakarta: LPPM Press UPN Veteran Jakarta, 2023), 92.

Ramadhan, Choky Risda, F. Afandi, K. Materay, S. Dirga, N. Ansar, and E. A. T. Napitupulu. "Opportunities for the Application of Plea Bargain in Indonesian Criminal Procedure Law." (2024).

D. Others

"Death Sentences and Executions 2025." <https://www.amnesty.org/en/documents/act50/8976/2025/en/>, Diakses pada tanggal October 14, 2025.

"ICJR Report: 2024 Death Penalty Cases Increase, 562 Waiting to Be Executed." <https://nasional.kompas.com/read/2025/06/19/11013781/laporan-icjr-kasus-pidana-mati-2024-meningkat-562-tunggu-dieksekusi>, accessed September 8, 2025.

"Waiting for the High Death Penalty, Komnas HAM Reviews Draft Government Regulations." <https://www.komnasham.go.id/deret-tunggu-hukuman-mati-tinggi-komnas-ham-kaji-rancangan-peraturan-pemerintah>, accessed on September 8, 2025.

"Working Paper: Recommendations for the Direction of Criminal Policy Reform 2019-2024." <https://icjr.or.id/kertas-kerja-rekomendasi-arah-reformasi-kebijakan-pidana-2019-2024>, accessed May 9, 2025.

"ICJR Criticizes the Death Row Trial Article of the RKUHP, A Waiting Row Phenomenon Emerges." <https://www.merdeka.com/peristiwa/icjr-kritik-pasal-masa-percobaan-terpidana-mati-rkuhp-muncul-fenomena-deret-tunggu>, accessed May 9, 2025.